The Washington Monthly

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HOW THE ACLU LEARNED TO LOVE STEVE FORBES AND JOE CAMEL

■

IS CLINTON A WAFFLER? IT'S NOT AS SIMPLE AS YOU THINK

■

THE LOOPHOLES IN CONGRESS'S GIFT BAN

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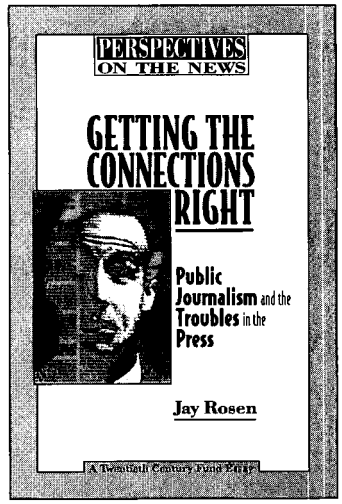
Is the Press the Problem?

The latest in the Twentieth Century Fund's Perspective on the News series explores public journalism through the eyes of one of the leading shapers of the movement.

Getting the Connections Right

Public Journalism and the Troubles in the Press

By Jay Rosen



It's time for journalists to do more than report the news, Rosen argues. "There are limits to the stance of the observer in journalism, but the American press has no philosophy that takes over when those limits are reached," Rosen writes. "Public journalism provides one." But it need not mean boosterism or selling out to market-driven content. Rather, Rosen summons the press to help revive civic life, improve public dialogue, and fashion a coherent response to the deepening troubles in our civic climate—most of which, he believes, implicate journalists.

The public journalism movement that Rosen has helped shape has been the subject of increasing controversy in the news business, with most of the criticism coming from people who have no idea what public journalism might mean. Anyone curious about the potential—and risks—of a new approach to reporting should read* Getting the Connections Right *to see what the furor is all about.

JAMES FALLOWS, author of *Breaking the News*

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The Washington Monthly

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Letters

Run for School Board

Joshua Wolf Shenk urges parents to take a stand in their children's education ("The Public Schools' Last Hurrah?" March). I agree. The work needed, though, reaches beyond homework, concerts, and PTA meetings. What concerned citizens should do is run for school board. Few tasks I've undertaken have been as gratifying as the long evenings of frustrating meetings since November 1993, when I took my oath of office for the West Hartford Board of Education. Though known as a placid suburb, we are a fascinating and complex city with 70,000 people and fifteen schools with, among other things, 26 foreign languages and a host of urban problems.

Shenk is correct that parents must take a role in successful schools. But it needs to be more than helping with homework, teacher meetings, and keeping schools clean. The parents I need are the professionals who know how to run complex organizations. Many, many problems in education are technical—the need for clear budgeting, accountable plans, and hiring, training, and supervision of accountable people. Many educators just don't have the experience to compute the implications of, say, fluctuating enrollment over 10 elementary schools. Many of the people with much-needed skills wait in line to serve on the boards of the museum, the hospital, the symphony, or their college. The reason they don't get involved in schools, I think, has to do with something I call the "glamour gap." Many professional parents consider municipal government, as a volunteer activity, to be tacky. The board of education doesn't offer black-tie dinners or the chance to network with the chairman of this or that.

I've pleaded with other parents to run for the board. But they won't. In just a few years, I feel like I've really made a difference. For example, when we went to hire a new high school principal, I helped lead a national search effort. While the pool of local talent had excellent candidates, we found one who was truly extraordinary. Later, one administrator told me, "You were right, Wick. This person is in a league we've never seen before here." And this is a strong school system.

I suspect readers of *The Washington Monthly* can bring even more challenge and wisdom to their local schools. What's needed is just a decision to move out of the audience and up to the table, for a few years of accountability. Let *Winning State and Local Elections*, by Ann Beaudry and Bob Schaeffer be your guide. Very few districts require an election effort beyond what your kitchen table can accomplish. With all the big money sloshing around in presidential and Senate campaigns, cynicism about democracy is easy to justify. What's been my great delight, though, is how well the system works. The power of the individual is in great shape, provided we show up.

Wick Sloane
West Hartford, CT

Perjuring Police

Joseph Kennedy's enraging experience recounted in "Presumed Guilty" (March) could undoubtedly be replicated a million times just for black people in America. But I do not think it is simply a story of police racism, although that is an obvious element. The same story could be told many more than a million times for Hispanics, young whites, and others who fall within groups the police have learned to fear. And just as the police fear young black men, I bet black men (and many others) fear beefy white police officers.

The real point, as I see it, is that in Kennedy's story, the police officer not only perjured himself, but did so unequivocally and on the record. Yet there was no prosecution for perjury. In fact, there are virtually no prosecutions for perjury in the entire United States, especially if we exclude those brought as part of a larger criminal case. This failure to take perjury seriously obviously permits enormous injustice, but it also sludges up the entire court system. In civil cases trial lawyers routinely assume that many witnesses commit perjury, and in criminal cases that virtually all witnesses do so, especially the police. As a result, any hope of a fair trial requires a good lawyer who can make a serious investigation of the facts and conduct vigorous cross-examination. All this takes time and money as well as luck, as Kennedy indicates.

I believe that the first step—and a relatively simple one—to dealing with the problem Kennedy describes would be to prosecute perjurors. Such prosecution is a form of system maintainance, like changing the oil in our cars, or brushing our teeth.

Keith Roberts
via e-mail

Sensorship

As a woman with breast cancer, I feel fully qualified to take issue with Joshua Wolf Shenk's downplaying of the usefulness of the Sensor Pad for breast self-examination. According to Shenk ("Warning: Cutting the FDA Could be Hazardous to Your Health," January/February), the FDA is justified in its reluctance to approve the Sensor Pad because the Canadian government decided that the use of the Sensor Pad could lull women at risk into a sense of

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complacency. Using the same logic, I should not have a mammogram this year, because if it is negative, I might give a sigh of relief and go on with my life even though there is a 20 percent chance that the mammogram results are wrong. Perhaps the FDA can tell me how a negative result using a Sensor Pad is any different from a negative result using soapy water in terms of a woman's sense of complacency? As to the Sensor Pad being no better than soapy water, the Sensor Pad can be used while lying in bed or watching TV—try that with soapy water. Given that the pad is non-invasive, let women decide if it is more or less useful than current methods of breast self-examination. I believe I am more qualified than the FDA to make that decision.
Dana Isherwood
Orinda, CA

Right On

Jonathan Rowe acknowledges that he is neither a theologian nor a Scripture scholar ("What's Un-Christian About the Christian Right," December 1995). Unfortunately, he proves the point all too well by misattributing to Jesus the statement that the love of money is the root of all evils. That statement is from a Pastoral Epistle—I Timothy 6:10—which church tradition has generally attributed to the apostle Paul, but which most scholars contend is, like II Timothy and Titus, largely if not entirely pseudonymous. But apart from this one error, Rowe's article seems to me right on target—and quite fair (almost too fair!) to the Christian Right.
Dean Peerman
Senior Editor, The Christian Century
Chicago, IL

A Pension for Trouble

I so much enjoyed your magazine—until I read the attack on federal retirees and their pensions ("The Cost of Living It Up," December). I request that you have the writer, Glenn Hodges, submit the facts on which he bases his statement that "hundreds of thousands of federal retirees actually receive more money in retirement than they did while working." Hodges ignores the fact that though only five percent of private plans provide full COLAs, those private plans are in nearly all instances supplemented by the Social Security the private plan retiree will be entitled to—and the Social Security annuity is also enhanced by COLAs.

Also, Hodges states that the average income for retired civil servants (in 1991) was $45,912. Where does he get that figure when as of September 30, 1993 the average annuity was $1,468 per month, $17,616 per year? According to data provided by the Office of Personnel Management an annual rate of $45,912 would be $3,826 per month. In 1993 fewer than 54,776 annuitants were receiving that much (or more), out of approximately 1.65 million on the annuitant rolls.
Jane S. Jones
Washington, D.C.

Glenn Hodges replies: *I wrote that the "hundreds of thousands" figure was estimated. To the best of my knowledge, no one knows exactly what that number currently is, but past figures were in the hundreds of thousands and experts continue to place it in that range.*

Second, while it is true that private pension plans are supplemented by Social Security, so are civil service pensions for employees who began working for the federal government after 1983. Thus, increasingly, federal employees receive COLAs on both their pensions and Social Security; private retirees by and large do not. Further, federal employees employed before 1984 receive a pension designed to be large enough to suffice without Social Security benefits (for which, remember, these civil servants did not contribute). And they receive full COLAs on that entire pension.

Finally, I stated that the average household income for retired civil servants was $45,912—not the average annuity. The point here was that federal retirees are much better off than their private sector counterparts.

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Tilting at Windmills

Have you noticed that whenever Bill Clinton does something right, the press will offer a cynical explanation? One of my favorites is "He's trying to look presidential." Almost never mentioned is the possibility that he may also be trying to be a good president. One of the things I like about *Primary Colors* is that it shows us Clinton as a total human being, with major flaws but also as very intelligent, well-informed beyond belief, and genuinely caring about people and their problems. The picture most of today's media seem to prefer is that of Francis Urquhart, the scheming prime minister in the PBS series, a man who never had a motive that wasn't evil.

In the later years of their presidencies, Johnson, Carter, Nixon, and Bush were all victims of this kind of reflexive cynicism, but Clinton is the only president to whom it has been applied from the first week....

The cost of the two federal shutdowns in salaries paid to people who weren't working and related expenses was $1.25 billion, according to *The Washington Post*'s Mike Causey. The employees who didn't work were not only paid their regular salaries but for overtime or night work that was scheduled but not performed. Hmmm....

As we keep trying to tell those mental pygmies on the Hill who want to deregulate everything, often it's not less but more and tougher regulation that is needed. For example, we learned from recent rail crashes that (1) a New Jersey engineer whose commuter train rammed another had been on duty for more than 14 hours with only a five-hour break for sleep in the middle of the night; (2) that CSX had eliminated a signal light that would have stopped the Maryland commuter train that crashed into the Capital Limited; and (3) that the two recent freight derailments at Cajon Pass in California happened because proper braking devices and procedures were not employed on a steep grade. Each of these wrecks could have been prevented by tougher, more vigilant regulation....

Have you heard about push-polling and suppression phone banks? They are the most recent dirty tricks the campaign consultants have developed. The essence of these techniques is for the pollster to ask questions like "What do you think of Buchanan's advocacy of wife beating?"—this one is a fictional example—or to call potential Forbes voters, as Dole workers really did in Iowa, and give them misleading descriptions about Forbes's views, or the 70,000 real phone calls that were made by the 1994 Lawton Chiles campaign in Florida in which Jeb Bush's position on Medicare and Social Security was distorted....

One Social Security reform—changing its financing from a payroll tax, which discourages employment, to an income or value-added tax or a combination of the two—is advocated by Amy Waldman in this issue. Another reform is to have the social security tax apply to all income, not just the first $62,700. This would transfer some of the burden of Social Security to the affluent from the struggling young worker. Another way to transfer that burden is to end Social Security payments to households earning more than $100,000 a year after they have gotten back what they put into the system plus interest. This would, according to Matthew Miller, the former OMB official who has written frequently for this magazine, save a cool $15 billion, savings, which of course would help to reduce the payroll tax on those young workers....

One of the earliest causes this magazine embraced was that of the whistle-blowers, the men and women in the government or private organizations who have the courage to expose institutional wrongdoing and who are all too often persecuted for their trouble. That their peril continues is illustrated by the case of Jeffrey Wigand, the tobacco company whistle-blower whose reputation is being blackened by the tobacco industry and its lackeys. (See Joshua Wolf Shenk's article on page 8). Another example is provided by Consolidated Edison, which was recently rebuked by a federal monitor for intimidating employees who reported incidents of environmental pollution by the company. A Con Ed supervisor summoned one whistle-blower into his office and called him a "snake," a "troublemaker," and an "instigator," according to *The New York Times*, which also says the supervisor's behavior was described as "an honest response" by a Con Ed vice president.

Recently here in Washington, a Metro operator was killed in a crash that occurred after he was apparently denied permission to switch the computerized controls to manual so that he could better control the speed of his train. The denial followed a policy laid down by Metro general manager Fady Bassily. When subordinates sought tapes of the conversation during which the operator was said to have been denied permission to switch controls, Bassily's behavior toward them was described by *The*

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Washington Times as "intimidating, stonewalling, and cursing." In one printable remark he told them they "needed to get on the right side of the tracks." This "get with the program" message is the intimidator's favorite. What it adds up to is a demand that an employee be loyal to the organization when it's wrong. But his highest duty is not to what his organization is, but to what it should be....

Boomerang, an important book about the failure of the Clinton health plan, will be published this month. It's by Theda Skocpol, a professor of government and sociology at Harvard. Among the reasons she cites for the failure was that the Clintons were afraid to explain the alliances, a crucial part of their proposal, because they were afraid the alliances would sound too much like big government. Skocpol also blames the media for devoting too much attention to the politics of the issue and too little to its substance. I agree. Another of her points that I agree with:

"Reporters tend not to repeat stories—for instance, discussions of how policies might affect people, comparisons of different policy proposals or analyses of the effectiveness of proposals—but instead always look for a new angle. Ordinary citizens may need repetition if they are to gain an understanding of a proposal such as Clinton's plan (or alternatives to it). But reporters seek novelty."

When I tried to persuade reporters to do their own version of the *Philadelphia Inquirer*'s pioneering comparison of the American, Canadian, and German health care systems, their answer was, "It's been done."...

Howell Raines recently called this magazine's influence on journalism the "Washington Monthly disease" or alternatively, "The Fallows Fallacy," in honor of one of our most distinguished alumni, James Fallows, whose new book, *Breaking the News* was the immediate occasion for Raines's ire. Why did the editor of the editorial page of *The New York Times* find this malady, whatever it is called, so threatening to the health of American journalism that he took the unusual step of writing a signed editorial warning of the danger it poses? What is it about us that got him in such a lather?

We are, he charges, "stenographers devoted to promoting worthy policies," advocates of a journalism that "makes life easy for candidates and officeholders and promotes the formulation of sound public policy," and committed to the "premise that journalism should be a service industry that tailors its work to help those involved in forming public policy."

The words stenographer and service industry do not strike us as triumphs of precision. *The Washington Monthly* was founded in part to bring fun, life, and point of view to the stenographic objectivity that was practiced by most American journalists in 1969, including many who worked for *The New York Times*. But to part of Raines' charge, we do plead guilty. We are dedicated to reporting that gives public officials—and the people—the facts and the analysis they need to make wise policy decisions. Raines says he favors a journalism that is "agnostic as to policy outcomes." We think that caring about the outcomes being the right ones is what motivates great journalism.

If, for example, you want this country to end up with the best health-care system, you will not, as the agnostic journalists did, content yourself with reporting what the Clinton health-care bill proposed, the comments of its advocates and adversaries, and who is winning and losing. You would also look into health systems in other countries that seem to work, their cost and their effectiveness in terms of health results and the satisfaction of the customers. If that kind of reporting had been done well—and as Theda Skocpol notes, often enough—the public would have learned, to take just one example, that the Canadian system spends far less on administration than our own with its multiple private insurers, each with its own bureaucracy, its own forms to be filled out, and with its own questions to be asked of doctors and patients.

This kind of relentless curiosity, and the hard work it implies, comes only when the reporter is on a quest to find the best, most workable answer to a public problem. If the quest is, instead, to find out what people are saying about a problem, the result is almost always journalism of the second rank. The best journalism occurs only when journalists are trying to figure things out.

Many people at *The New York Times* feel the same way, even if Howell Raines does not. There have been an increasing number of outcome-concerned articles in the last few years. Consider, for example, the pieces about the FAA which recommended better training for inspectors and other ways of improving the agency.

Of course, when you find what you think will produce the best outcome, you may become an advocate. And, of course, there is a danger that advocacy will blind you to the facts that don't fit your case. That is why at the heart of this magazine's journalistic philosophy—and indeed of its political philosophy, neoliberalism—is the obligation to lean over backwards to face the inconvenient fact.

Because from time to time we may not meet that test, it is good to have some of the agnostics around to catch us when we fail. But the problem with journalists today is not a shortage of agnostics but a shortage of reporters who are determined to find the best answer.

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When it comes to reporting on policy, then, Raines and I have some honest disagreements. But when he says we are dedicated to making life "easy" for candidates and officeholders, he's guilty of a serious misrepresentation. That has to worry us. A million people read the *Times*. Of them, only about the 30,000 who also read the *Monthly* know that we often make life miserable for candidates and officeholders. Democrats and Republicans, liberals and conservatives have all taken their lumps in our columns. We've been tough on Bill and Hillary Clinton, and who can say we've neglected Bob Dole and Newt Gingrich?

A curious experience I had with Howell Raines will help explain why I find his charge remarkable. Around 18 months ago, I was asked by the *Times* op-ed staff to write a piece about the Republican congressional leadership. The article was submitted, accepted, and scheduled to run on a Sunday. On Friday afternoon, I got a call from the *Times* editor I had been working with. He told me that Raines had instructed him not to run my piece because Raines had written an editorial that was somewhat critical of Dole for the Saturday paper and feared that my piece, if it ran the following day, would look like piling on. A week later, my article was run with the criticism of Dole toned down a bit. One paragraph was cut. It contained an unflattering appraisal of Al D'Amato. The changes weren't made because I was being too "easy" but because, if anything, I was being too severe. So the "too easy" charge from Howell Raines is far from easy for us to understand.

Another charge made by Raines is that those afflicted with *The Washington Monthly* disease use journalism as "a convenient cover" for "dispensing private political advice," as he says I was recently "discovered" doing for the governor of West Virginia. Anyone who read my account of the event will know how unsecret my advice was—if you tell Bob Woodward you're probably going to do something, as I had in this case, you're certainly not trying to conceal what you're doing.

But I should make clear that I see nothing wrong with an opinion journalist like me offering advice to a candidate or officeholder, just so it is consistent with the advice I offer here in these pages. Why shouldn't I say the same things in private as I say in public? Wouldn't it be strange if I did not?

Nor do I see anything wrong with having politicians or officeholders as friends. Knowing them well helps me understand their problems. As does having worked in politics and government. Raines thinks Fallows and I are in danger of being contaminated because we worked in political campaigns and served in public office. I say thank God we did. We understand what's happening in politics and government better because we've actually been there. We can recognize the scams and point to where the bodies are likely to be buried in a way that a journalist without our experience is less likely to be able to do.

I'm sure that James Fallows does a better job writing about Jimmy Carter and other presidents because he worked in the Carter White House; nor has Fallows's writing about Carter always been favorable. (Remember that marvelous detail about Carter controlling the White House tennis court schedule that Fallows used in *The Atlantic Monthly* to illustrate Carter's passion for micromanagement?) I am sure that I do a better job of covering the bureaucracy because I have served in it. And anyone who reads this column will not believe that I am too kind to lawyers because I have been one. I not only think this kind of experience is good, I want at least half of our journalists to have experience in the fields they cover.

Notice, however, that I say "half." The reason is that I realize there are dangers in the friendship and shared experiences. Empathy can produce great reporting. It can also inspire favoritism and bias and company man-ism. That's why, just as with policy reporting, it's good to have some of those agnostics around. The problem today, though, is that just as in the case of policy reporting, where there are too many agnostics, there are too many journalists without real life experience and too few of the reporters who care about and understand the people and the institutions they cover....

I hope you've read *A Civil Action*, Jonathan Harr's gripping account of the heartbreakingly difficult time some Massachusetts fami-

Roman Genn

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lies experienced in trying to collect damages from companies whose pollution of the environment had clearly caused sickness and death. What the book reveals that's certainly true of my experience as a lawyer is that the courts tend to tilt in favor of the corporations, and the corporations and the high-priced, highly respectable lawyers they hire are willing to go a long, long way, taking numerous devious turns, in order to avoid admitting liability.

What may not be quite so typical is the plaintiff's lawyer who is a reasonably good guy, if addicted to his Porsche and to designer suits. Too many of his colleagues share his addictions, and unfortunately also share the corporate lawyer's curious form of dedication to truth and justice. They, along with the criminal defense attorneys who seek out high profile cases, also tend to be egomaniacs, which is just what Patty Hearst called her former lawyer F. Lee Bailey, who's self-absorption she believes was partly to blame for her 1976 robbery conviction. "He's a man who can use a little time in a federal penitentiary and do a little pro-bono work."...

The editors of *Business Week,* a publication that cannot be accused of a history of excessive harshness to the GOP, recently commented: "[T]he greediest gorgers on PAC money these days are the freshmen Republicans elected in 1994 on a platform of changing Washington." We knew these fellows were fools, but at least we believed them to be sincere. There really isn't a lot of hope for hypocritical fools, is there?...

There's a lot of bad news these days. The lunatic terrorists in Israel and Ireland are threatening to destroy what had seemed to be bright prospects for peace. And almost as frightening for democracy is the news that here at home, the number of college freshman who say they think it's important to keep up with politics has sunk to 29 percent (down from 58 percent in 1966). Only 15 percent said they even discuss the subject often. Another disappointing number, reported by *The Washington Post*, is that 34 percent of college freshmen say they think an individual can't do much to change society, "the highest such percentage ever recorded on that question."

But the *Post* story does have one piece of really good news. The percentage of college freshmen interested in teaching has more than doubled since 1982....

One ancient cause of the *Monthly*'s that was not immediately embraced by the world is the nonlethal weapon. Why kill someone when temporarily disabling him may be enough? So you can imagine how pleased I was by a "60 Minutes" report that the American military is now seriously exploring the potential of rubber bullets, pepper spray, foam grenades and other ways of getting people to behave without mowing them down. Jeanne Kirkpatrick, the former U.S. ambassador to the U.N., is a critic of the program. She says that the U.S. government will send a message that "they are as concerned about the adversaries as they are about the Americans." How terrible....

James Stewart's new book *Blood Sport* is another investigation of Whitewater, this one by a widely respected reporter, that fails to come up with a smoking gun, meaning convincing evidence of criminal behavior by the Clintons. But it does confirm the impression we have had that, to the extent there was behavior that if not criminal was certainly embarrassing, the principal sinner has been Hillary Clinton.

What's ironic is that one reason the President went along with the stonewalling on Whitewater, which was primarily engineered by his wife, is that he thought of her as his moral superior who was unlikely to lead him astray. This clearly has some roots in his own sexual misconduct. But it may also not be unrelated to the fact that, as anyone who has lived outside big-city America will understand, small-town Baptists like Bill Clinton sometimes feel inferior to Methodists like his wife, who sometimes want them to feel that way....

Speaking of Whitewater, the federal special prosecutors have already cost the taxpayers $25.6 million. By contrast, the Watergate prosecutor cost a grand total of $21.6 million, and sent a slew of senior Nixonians to the slammer, including H.R. Haldeman, John Erlichman, John Mitchell, and Charles Colson. The only big fish netted by the Whitewater prosecutors is Webster Hubbell, and they got him for a misdeed that had nothing to do with Whitewater....

Having argued that it's good for journalists to have experience in politics and government, I have to concede that the reverse may not always be true. I think Pat Buchanan's background in opinion journalism may have cost him the momentum he had acquired through New Hampshire. Remember, he had started out as an editorial writer for the *St. Louis Globe-Democrat* and spent most of his subsequent career commenting on public affairs in his column and on radio and television shows. So after he scared the establishment into attacking him, when he should have been the smart candidate who calmed the fears the establishment was arousing, he was the smart commentator who made jokes about peasants and pitchforks and parodied the establishment's picture of him by donning a black hat and brandishing a pistol. Unfortunately for Pat, the commentary was not only amusing to insiders, it scared the pants off the voters....

–Charles Peters

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Steve Forbes, Joe Camel, and the ACLU

Government isn't the only threat to our civil liberties. So is the power of money

BY JOSHUA WOLF SHENK

The President's approval rating is in the cellar; his prized crime bill is teetering. Senator Bob Rumson, his nemesis, is flinging dirt and climbing in the polls. Meanwhile, rabid reporters are hounding his press secretary in the briefing room. "Robin," one of them hollers, "will the president ever respond to Senator Rumson's question about being a member of the American Civil Liberties Union?"

In 1988, Michael Dukakis withered under such a charge from George Bush. But this is not real politics. It's liberal fantasy wrapped in celluloid: Rob Reiner's *The American President*. Just as the reporter drops the ACLU bomb, President Andrew Shepherd (with all the poise and good looks of Michael Douglas) bursts through the door. "Yes I am a card carrying member of the ACLU," he says. "But the more important question is, why aren't you, Bob? This is an organization whose sole purpose is to defend the Bill of Rights, so the natural question is why wouldn't a senator choose to uphold the Constitution?"

Douglas's character goes on to praise the ACLU with the reverence normally reserved for the Declaration of Independence, Abe Lincoln, and little league baseball. But the organization didn't need a good publicist to plant this homage. It has spent 76 years defending unpopular speech, unpopular people, and unpopular causes and earned great respect in the process. Founded in 1920 to stand up to A. Mitchell Palmer, Woodrow Wilson's red-baiting, immigrant-bashing attorney general, the ACLU has fought for the rights of blacks, immigrants, atheists, and homosexuals. Though it is derided as extremist, there is no question that the organization has made this country safer and more free for all minorities: religious, ideological, racial, what have you.

But in recent years the ACLU has devoted extraordinary energy to defending the rights and interests of another minority group—extremely wealthy individuals and corporations. You won't find these cases trumpeted in the group's annual report or on its slick World Wide Web pages. But ACLU lawyers are in the trenches fighting for Steve Forbes's right to spend unlimited amounts on his campaign for the presidency and for RJ Reynolds's right to lure young smokers with Joe Camel ads.

The ACLU insists it is merely doing what it has always done: defending First Amendment protections for everyone. Wealthy politicians and tobacco companies, it argues, deserve the same privileges of

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unrestricted free speech as anyone.

For the most part, that is true. But, as we all know, no right is absolute. Everyone recognizes that the right to extend a fist ends at another person's nose, and that yelling "fire" in a crowded theater isn't protected speech. What is equally obvious to most—but considered heresy among the lawyers at ACLU—is that the right to spend money to advance one's own interests can and should be limited when it does substantial harm to the country at large. The ACLU might be more inclined to understand this fact if they weren't themselves accepting generous donations from the tobacco industry ($920,000 in the last 10 years).

ACLU lawyers proudly declare themselves extremists in the pursuit of liberty. But by opposing campaign finance reform and reasonable limits on corporate behavior, they are showing themselves to be extremists in pursuit of stupidity. In a time when the public sector is shrinking, and the private sector is taking up the slack, government is not the only power that can threaten freedom. So can the almighty dollar, and the ACLU needs to wake up to this reality. As it is, the group is not only sullying its august reputation; it is betraying the very causes it purports to defend.

On the Wrong Side

On its 75th anniversary last year, the ACLU published a list of its "greatest hits" of Supreme Court cases, many of which are truly inspiring. *Smith vs. Allwright* in 1944 prevented the exclusion of blacks from political primaries. In *Hague vs. CIO*, the Court affirmed the broad right to gather in public places. The list is full of landmarks in American legal history—*Brown vs. the Board of Education* in 1954, *Gideon vs. Wainwright* in 1963, *New York Times vs. Sullivan* in 1964—in which the ACLU was involved.

There is an ugly duckling on this list, however: a 1975 case called *Buckley vs. Valeo*, in which the Supreme Court forbade spending limits for candidates in federal elections. This ruling, strongly supported by the ACLU then and now, derived from the premise that money equals speech and therefore cannot be restricted. The ACLU considered the case only a "partial victory," though, as the Court upheld limits on campaign contributions and disclosure of political gifts of $100 or more.

In the 20 years it has been on the books, the *Buckley* case has drawn ire—and ridicule—from Americans of all ideological stripes. That's because it laid the foundation for an electoral process that systematically favors the quantity of money over the quality of ideas. Consider the 1994 elections, in which it took more than $500,000 on average to win a House seat, and $4.6 million for a Senate seat. In almost nine out of 10 races, the candidate who spent more money won.

There are two major problems with the marriage of money and politics. The first is corruption: Big campaign donors regularly solicit legislative favors in return for their largess. If we were honest, we'd call it bribery. But because it's so common, we think of it as just business as usual in politics. An equally important problem is that public officials—charged with representing all the people—are drawn from, and owe their continued electoral success to, the ranks of the wealthy. Less than one-third of one percent of Americans make campaign contributions of $200 or more. But representatives must continually court wealthy donors in order to stay competitive. Senators need to raise $15,000 a week to keep their coffers filled. For presidential candidates, $20 million is considered the minimum. The only alternative is for candidates to bankroll themselves, which is also common. At least 28 senators are millionaires, compared to one half percent of the population as a whole. When the likes of Michael Huffington (who spent $29.9 million trying to unseat Dianne Feinstein in 1994), or Steve Forbes, or Ross Perot, get into the action, the price is ratcheted up even further for the rest of the field.

You would have to live under a rock to avoid the fact that something is terribly wrong. In a recent poll, 81 percent of Americans strongly or partially agreed with the statement that "our present system of government is democratic in name only. Special interests run things." And yet, rather than joining the chorus of voices that seek to overturn *Buckley*, the ACLU wants to see it strengthened. Rather than support voluntary limits on campaign spending, the ACLU actively opposes such reform. They've testified against the McCain-Feingold campaign finance bill, which would ban "soft money" (donations given to a political group, rather than a particular candidate) and provide cheap TV time for candidates who limit their spending. In a landmark case currently before the Supreme Court that tests the use of soft money, 10

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ACLU lawyers produced a brief opposing limits and arguing for an affirmation of *Buckley vs. Valeo*. And in Washington, D.C., the group is throwing its full weight against Initiative 41, a campaign finance reform bill that passed by a two-to-one margin in 1992.

ACLU officials compare campaign spending to the time-honored tradition of speaking freely in a public square—something that can't be limited. But the real question is this: Should individuals wealthy enough to buy super-sonic amplifiers be allowed to drown out other speakers? Candidates without deep pockets or access to big-money donors are effectively excluded from American politics, and government as a result is skewed towards the interests of the wealthy.

To be fair, the ACLU does favor public funding of elections, and it has correctly pointed out that some campaign finance reforms—such as the $1,000 limit on donations—may have made things worse by forcing candidates to spend even more time fundraising. But the root of all evil—legally speaking—is *Buckley vs. Valeo* and its bogus conclusion that money equals speech. Legal scholars are laying the framework for a new legal theory to replace *Buckley*, and they contend that having the ACLU on their side would radically increase their profile and their standing in courts—not to mention the court of public opinion. "The ACLU ought to be arguing for free speech rights and equal protection for the non-wealthy," says John Bonifaz, one of these scholars and the executive director of the National Voting Rights Institute. "Instead, they're defending the elite."

While most Americans wouldn't appreciate the ACLU's fight to make the world safe for influence peddling, rich folks and big businesses certainly do—particularly the makers of cigarettes. The tobacco industry gave $2.37 million in soft money to the Republican party last year and hundreds of thousands more to the Democrats, continuing a long tradition of beneficence. In return, tobacco companies have gotten rewards such as the blockage of restrictive legislation and the continuation of tax subsidies. Just last spring, Republican National Committee Chairman Haley Barbour tried to pressure the speaker of the House in Arizona to try to pass a pro-tobacco bill.

The ACLU, then, is doing the tobacco companies a big favor by fighting campaign finance reform. But that's far from the only favor. The ACLU has ferociously opposed limits on cigarette ads, or any restrictions on deceptive marketing of tobacco. They oppose FDA restrictions on ads aimed at minors—and plan to join the tobacco companies in fighting them. The ACLU also lobbied against a bill that would have stripped tobacco companies' tax deduction for advertising expenses.

Queried about the ACLU's defense of tobacco advertising, Executive Director Ira Glasser offers two explanations. First, he believes that all speech should receive equal protection—no matter who it comes from or what its purpose. "If we can defend free speech for the Nazis and the Klan, we can sure as hell do it for Philip Morris," he says. But as J.M. Balkin, a constitutional scholar at Yale Law School, argued in the *Monthly* in October, the Supreme Court has never offered commercial speech the same protections as political speech. While the latter is fully protected under the First Amendment no matter how inflammatory or misleading, the former is an extension of the marketplace and therefore subject to government regulation. That's why, for example, the Securities and Exchange Commission can closely regulate the form and content of financial advertising (regulation that the ACLU does not object to). That's why untruthful advertising is banned outright.

That leaves Glasser's second defense—the old slippery slope routine. "First Amendment regulations are like poison gas," he says. "The wind has a way of shifting and blowing that principle back on other things." If cigarette advertising is limited, he asks, who's to say ads for high-fat foods or cars aren't next? If you leave the decision of what's protected to government, "you've got to be prepared to trust that decision to President Buchanan and Jesse Helms," says Glasser, adding "You're headed straight down the road to Stalinism."

What Glasser misses is that we already *do* regulate commercial speech. If his logic is correct, we are already on the road to Stalinism, with truth-in-advertising standards and limits on television programming. The ACLU's real argument—one that they never make explicitly—is that any government restriction on speech is an evil to be feared, while any private speech is a good to be encouraged. They show a total absence of faith in the power of people to govern themselves. If politicians go too far restricting advertising, voters could toss them out in the next election.

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Rather than limit cigarette ads, the ACLU calls for more "counterspeech." They correctly point out that, as the facts of the addictive and dangerous nature of cigarettes have become better known, smoking rates have declined. But smoking has *increased* among young people, the major targets of tobacco ads. Compared to the $4.6 billion dollars spent marketing tobacco, "counterspeech" doesn't stand a chance. And the tobacco companies spend millions more muzzling elected officials (with campaign contributions), charitable groups (with grants and donations), and the media (with advertising). As Ronald K.L. Collins demonstrated several years ago in a damning study, *Dictating Content: How Advertising Pressure Can Corrupt a Free Press*, the threat of losing tobacco advertising—and the ads of subsidiaries, such as Kraft (owned by Philip Morris) and Nabisco (owned by RJ Reynolds) —leads newspaper and magazine editors to shy away from a discussion of tobacco that's even vaguely critical. Given the extraordinary influence of tobacco money—and the annual death toll of 426,000 from cigarette-related illnesses—government intervention seems not only proper, but necessary.

Speaking freely in a public square is a time-honored tradition. But should super-sonic amplifiers be allowed to drown out other speakers?

Failure to understand the distorting effect of money on the marketplace of ideas is a failure to grasp a central fact of modern American life. The ACLU might understand this, if it weren't itself the beneficiary of tobacco money. The company has received $770,000 from Philip Morris and $150,000 from RJ Reynolds in the last 10 years. Speaking to Morton Mintz, who first reported the tobacco-ACLU link in 1993, Ira Glasser defended having accepted the money. He said he'd take money from John Gotti as well.

But the imprisoned mobster is not at the center of a great debate over free speech in America. The tobacco companies are. And the ACLU isn't just defending Joe Camel and the Marlboro Man. It is also turning a blind eye to the suppression of speech by cigarette makers.

Consider the case of Jeffrey Wigand. The former chief of research for Brown & Williamson Tobacco, Wigand was fired in 1993 and has recently emerged as a powerful threat to the industry he once served. On "60 Minutes," he asserted that B&W knew how to make a safer cigarette, but hushed it up. He told a Mississippi court that former B&W Chairman Thomas Sandefur committed perjury when he told Congress he believed nicotine was not addictive. Wigand quotes Sandefur saying, "We're in the nicotine delivery business" and asserting that nicotine is, in fact, addictive.

Now Brown & Williamson is pulling out all stops to shut Wigand up. They've sued him for breach of contract, and begun a smear campaign that accuses the chemist of being a liar, a thief, and a wife-beater. If Wigand is effectively silenced, legal scholars say, the cause of free speech would be dealt a severe blow. "Many of the new threats of freedom to speech in America are corporate as well as governmental," says Collins, who is also co-author of the new book *The Death of Discourse*. "If a reporter is being censored directly or indirectly by advertising pressure, if an individual like Wigand is being censored by the law of contracts, if a public interest group is essentially immobilized because of [corporate funding], in all of those instances and others, the threats to free speech are real and substantial." Government, it seems clear, is far from the only source of threats to civil liberties.

One would assume that the ACLU would leap to defend Jeffrey Wigand. Ira Glasser, defending ACLU's involvement in the corporate speech issue, makes as strong a case as anyone. "If it's only Philip Morris and the tobacco companies, this says, 'This isn't real. It's just these people serving their own interest.' When the ACLU gets involved, that says, 'Well, there's a principle involved.'" Which is precisely why the ACLU should be by Jeffrey Wigand's side—offering counsel, writing briefs, making public statements. But they're doing none of these things. Mel Wulf, ACLU legal director from 1958 to 1977, calls skipping the Wigand case "a fundamental dereliction of their institutional responsibility."

ACLU President Nadine Strossen says she sees "very troubling First Amendment problems" in the "the use of corporate pressure and power to deprive the public of access to information and to punish somebody who has the courage to speak." Despite this, she offers the lame excuse that "we

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don't have the resources to get involved" in the Wigand case. Other ACLU officials say Wigand hasn't asked for their help. But that has hardly stopped the group in the past. The ACLU is well known for seeking out plaintiffs to challenge unjust laws or establish precedents. It claims in its literature to "select cases that will have the greatest impact, cases that have the potential for breaking new ground and establishing new precedents that will strengthen American freedoms."

Really? Consider the cases that beat out Jeffrey Wigand for ACLU attention in recent months:

• *The O.J. trial:* Last spring, the ACLU of Southern California pressed Judge Lance Ito to release sealed transcripts of court hearings. Just why the group felt compelled to spend its scarce resources on a trial picked to death by hundreds of reporters is unclear. This was a matter for Geraldo Rivera's lawyers, maybe. But the ACLU?

• *Uniforms in public schools:* Complaining of "enforced conformity" (as Nadine Strossen puts it) and discrimination against poor parents, the ACLU has gone to court to block school uniform initiatives in California and Arizona. But uniforms *save* money for parents by easing pressure from kids to buy fancy clothes and $100 sneakers. They've also been shown to lead to improved attendance and decreased violence in schools. And even if the ACLU was right, their decision to devote resources to the aesthetic self-determination of minors while protecting the right of tobacco companies to endanger the health of those minors is bizarre.

• *"God" in public spaces:* The ACLU of Illinois is suing Montgomery County to remove a courthouse sign that says, "The World Needs God." The objection, explains Jane Whicher, an ACLU staff attorney, is that the sign "sends a message that one's private religious beliefs are pertinent to county government." Actually, I agree with her. And if a citizen is truly offended by such a religious symbol, it seems proper for the ACLU to take the case. What the group does too often, however, is scan the country like hawks for minor violations of church-state divisions, and then find plaintiffs to build the case around. (Whicher refuses to say whether the ACLU approached the plaintiffs in this case or vice-versa.)

Some items on ACLU's agenda are genuinely pressing. They are leading the fight against censorship on the Internet, for example. And the group isn't entirely blind to corporate threats to civil liberties. They've defended workers fired for their political beliefs and taken up the case of a group in a Denver suburb that was sued by a land development company after the citizens' protests persuaded the city council to block a project.

Still, given the ACLU's scarce resources—and its unique ability to raise any case to the forefront of discussions on civil liberties—their overall choice of cases to pursue seems wrongheaded, if not scandalous. If Brown & Williamson wins its case against Jeffrey Wigand, the cause of whistleblowers—and, more generally, all speech that is critical of powerful corporations—would be dealt a severe blow. The ACLU will be on the sidelines, stuffing Philip Morris's money in its pockets. (It took $75,000 just last year.)

Meanwhile, the ACLU continues to exacerbate what may be the most grave public crisis of our day. Voter turnout is at an all-time low. Politics and government are held in contempt. Instead of working to heal these wounds, the ACLU is pouring salt on them, working to block piecemeal reforms and to defend *Buckley vs. Valeo*. John Bonifaz of the National Voting Rights Institute calls *Buckley* the "*Plessy vs. Ferguson* of our time." The ACLU is defending wealthy Americans with the same passion it used to fight for the liberties of blacks in the civil rights movement. What the organization doesn't understand, says Bonifaz, is that "we have a minority that controls the vast *majority* of the nation's wealth. This is one area where we have to protect the majority, because the minority is in control." (That minority can also afford armies of lawyers, but the ACLU is more than happy to provide them with pro-bono counsel. One firm active in the campaign finance issue for the ACLU is Covington & Burling in Washington, D.C.—the same firm that represents the Tobacco Institute, a consortium of cigarette makers.)

Sometimes checking the inordinate influence of a private interest means giving the government power to enact sensible controls. In its belief that this is impossible, the "liberal" ACLU has more in common with right-wing extremists than it might like to think. Both caricature government as a sinister conspiracy out to usurp individual rights. Both champion giving maximum liberty to the wealthy. And, in the end, both support policies that end up hurting the very people they claim to be helping: the vast majority of Americans. □

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The Art of Flattery

Letters from a CIA director to a president

BY LUCY KOMISAR

There is an epistolary genre, not unknown in Washington, which is best described as—forgive the crudeness—"the sucking up letter." It is a tool of the trade of speaking flattery to power.

In the course of my research in the Nixon files at the National Archives, I came across these seven examples which deserve a prominent place in the canon of this genre.

They were written by then CIA Director Richard Helms to President Richard Nixon. Many people have seized opportunities to warmly address a patron or benefactor, and you may even reluctantly recognize something of yourself in Helms. Still, he was a master of the art. Helms, you will recall, had a difficult time in the Nixon administration. He'd been invited, as CIA chief, to attend Johnson administration National Security Council meetings, but Henry Kissinger informed him that under the new regime he would have to leave the room after giving his intelligence briefings. Helms got the order reversed, but it was clear that he needed to forge links to the President to counter the threat from Kissinger.

Helms, like everyone else, found it difficult to get past H.R. Haldeman's Oval Office blockade. So, he got in the habit of leaving notes at Nixon's place at NSC meetings. An early example of the canon came just after Kissinger's initial threat to his status and power.

On March 4, 1969, Helms wrote: "My dear Mr. President: After hearing you this morning and reading incoming reports from Western Europe, may I say what a remarkable personal *tour de force* you achieved on your trip ... I feel compelled to tell you that your approach to the real world is a most reassuring one. I do not mean to sound gratuitous; I just want you to know how I see it. Respectfully, Dick."

And a week later, March 10, 1969: "My dear Mr. President: Again I want to thank you for visiting the Agency Friday. From the standpoint of our people, it was everything that one could have desired. I know you could sense the lift in morale even while you were on the premises. Your warm friendliness has brought nothing but glowing remarks, even from those "cynics" who believe they have seen it all ... Your words about me were humbling. I need not assure you that I will do everything I can to justify them ... Respectfully, Dick."

Thomas Powers, Helms's biographer, remarked

Lucy Komisar is a New York journalist who is working on a book about U.S. efforts to influence the internal affairs of other countries in the 1970s and 1980s.

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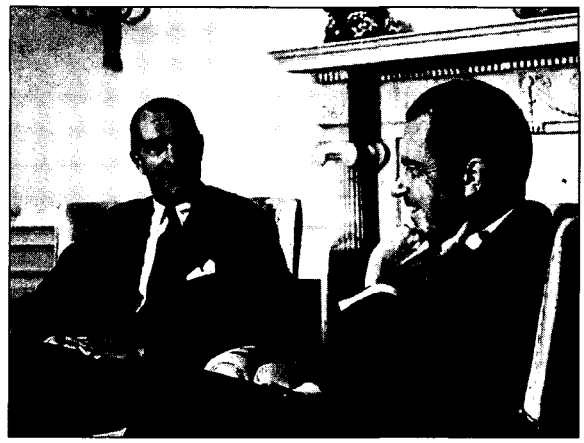
that Helms never managed to win Nixon's confidence. "At times, Nixon's treatment of him in meetings seemed harsh to the point of cruelty. He frequently interrupted Helms with a comment or correction, sometimes in a tone which witnesses could only describe as spiteful or snide."

But Helms kept the adulatory notes coming. This from November 4, 1969: "My dear Mr. President: May I say how impressed I was with your speech last evening. It constituted national leadership at its best. From my vantage point, I would opine that a sign of relief went through free Asia and that its leaders quietly offered thanks for your courage and statesmanship ... Respectfully, Dick."



Helms apparently was pleased as punch with Nixon's performance. But the President was far from satisfied with his CIA chief. By 1970, Nixon was blaming Helms for what he thought was faulty intelligence that was gumming up the Vietnam war effort. But Helms persevered. On January 9, 1970, he wrote: "My dear Mr. President: This brings warmest birthday greetings from all of us in the Agency. Long may you prosper ... Respectfully, Dick."

By the fall of that year, Helms was immersed in Chilean policy. The CIA's efforts had not prevented Salvador Allende's victory in the presidential election, and they failed to get President Eduardo Frei or the army commander to go along with a plan for a coup to block Allende's selection by the parliament. On the afternoon of September 15, Nixon and Kissinger met in the Oval Office with Helms, and told him to move to promote a coup in Chile. With Helms carrying out Nixon's passionately-desired policy, the president became somewhat generous. (Or maybe the flattering notes were paying off.)

On October 5, 1970, Helms wrote: "My dear Mr. President: It was most thoughtful of you to offer me the use of Camp David and the SEQUOIA [the presidential yacht] during your absence. Circumstances did not work out so that this could be done, but perhaps it will be possible to have an opportunity some other time ... Respectfully, Dick."

Helms hardly had the time for boat rides or visits to the countryside. The CIA was in the midst of trying to aid a plot by a renegade army officer, Roberto Viaux, who would soon after organize the assassination of the Chilean army commander.

By 1971, Allende was in office and the CIA was funding opposition political parties, media, and business groups. Helms could only hope that Nixon was not thinking about his failure to keep Allende from power. On January 5, 1971, he wrote: "My dear Mr. President: Without I hope being thought presumptuous, may I say how effective I found your appearance on television last evening. You were persuasive and constructive, all in a 'real world' context, and it came over as a most impressive performance in the best Presidential tradition. It gave even me a big lift...."

Then, as sometimes happens, the power shifted and Richard Nixon was in Helms's debt. On June 17, 1972, five men were arrested for breaking into the Watergate headquarters of the Democratic National Committee. Two of them had false ID papers; they also had hotel keys that led police to former CIA agent Howard Hunt. Nixon asked Helms to use the CIA to shut down the FBI investigation of the Watergate money trail on grounds of national security. Helms didn't do it. But if he had revealed publicly that the CIA had prepared the phony IDs for Hunt to use in other Nixon campaign shenanigans, the scandal would have blown up in Nixon's face before the November election. Nixon desperately needed Helms's silence.

Now, Helms was a cosseted guest. On October 2, 1972, he wrote the last letter in the file: "My dear Mr. President: May I thank you most warmly for including me in one of the most pleasant dinners I have ever attended at the White House. You were in such good form Friday evening that, even if we had not had the delicious dinner in the Blue Room, it still would have been a memorable occasion ... Respectfully, Richard Helms." □

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Tidbits & Outrages

WHAT DOLE REALLY LEARNED FROM NIXON

"You don't have to like me," Bob Dole told a rally in Sioux Falls, South Dakota. "But you ought to vote for me anyway."

AND PRESIDENT CLINTON ADMIRED MADAME CHIRAC

On his recent visit to the U.S., French president Jacques Chirac admired President Clinton's TelePrompter. Clinton gave him one as a gift.

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THELMA, LOUISE, AND REBA

Two women committed a murder in Cincinnati to get money to go to Nashville. Once there, they planned to hold hostages at the Grand Ole Opry in order to get an audience with singer Reba McEntire.

REPLACING THE WELFARE STATE WITH THE OPPORTUNITY SOCIETY

Quayle Museum Gets Government Funds

from The New York Times

I HEAR SADDAM LIKES HIM, TOO.

Vladimir V. Zhirinovsky celebrated Pat Buchanan as a "brother in arms" and wrote to the Republican presidential candidate, urging that they join forces to "deport this small but troublesome tribe [of Jews]."

FREUDIAN SLIP

On his television show in December, Rush Limbaugh said of the Clinton administration: "They've grown so accustomed to their own demagoguery ... that even when confronted with the truth they still apparently, without any conscience, look into the camera just as I am now, and continue to lie about it."

"YOUR HONOR, THE PLAINTIFF DOESN'T HAVE A LEG TO STAND ON."

Doctor Who Cut Off Wrong Leg Is Defended by Colleagues

from The New York Times

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Reinventing the Corporation

The public gives corporations their right to exist and asks very little in return. It doesn't have to be that way

BY JONATHAN ROWE

When an act of simple human decency appears heroic, it's time to ask some basic questions about the culture in which that act takes place. That's what happened last December in an old mill town in Massachusetts. AT&T had just announced it was laying off 40,000 workers, even though profits and executive pay were soaring. U.S. corporations had inflicted over three million such layoffs since 1989, and there was a depressing new litany on the evening news: jobs down, stock market up. (More recently, it's been the equally revealing counterpart: jobs up, market down.) The new Republican Congress was giving these corporations the store. Yet the more they got, the less they seemed willing to give back in return.

Amidst this grim backdrop, Aaron Feuerstein's textile mill in Lawrence, Mass. burned down. Without hesitation, he announced that he wasn't going to pull up stakes and move to Mexico. He was going to rebuild the mill right there, in the state conservatives deride as "Taxachusetts." Not only that, he was going to pay his workers a month's wages to get them through the Christmas season.

Soon everyone was talking about Feuerstein. He was an ABC News "Person of the Week." He sat next to Hillary Clinton at the State of the Union address. Yet Feuerstein himself couldn't understand the fuss. "What?" he asked. "For doing the decent thing?" While his modesty may be excessive, his instinct is on the mark. By his example, he raised a pointed question: Why do we expect so little from major businesses these days?

Certainly, that thought is abroad in the land. Not since Ralph Nader's heyday in the early seventies have the words "corporate responsibility" come up so often in political debate. Because the prime messenger this time is Pat Buchanan, much of the mainstream media has dismissed the issue as the benighted economics of Bible-thumping ignorami. But the notion that corporations have responsibilities, just like real people, touches a deep chord; and while the term "corporate responsibility" may strike jaded modern ears as oxymoronic and naive, historically it is exactly right. "The corporation is a creature of the state," the Supreme Court observed back in 1906. "It is presumed to be incorporated for the benefit of the public."

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How to get back to that original intent—to traditional moral values in the economic realm—is an urgent question. Conservatives say, correctly, that government should do less and individuals and business more. But if that's so, we have to consider whether the dominant form of business is up to the job. If there is to be less top-down regulation and more voluntary well-doing, then we have to ask whether the Wall Street-oriented corporation of today is capable of such a thing.

The issue here is not the hoary ideological debate between the government and the market. Rather, it concerns the kind of entities that will comprise the market. The corporation is an artifice of government, no less than the welfare system or foreign aid. Historically, it has evolved as society has changed. The time has come to ask what the next phase of that evolution should be. In simple terms, how can we reconnect the corporation to the social and community concerns it was originally intended to serve?

The way the corporation drifted from that role is a story that has all the elements of a neoconservative morality play. Corrupt government; self-serving politicians seeking to fill the public coffers and give the voters something for nothing; elite Eastern lawyers riding roughshod over traditional moral values; liberal permissiveness, economic style, and unintended consequences galore—it's all there.

Racing to the Bottom

Today we assume that corporations exist to make money. Ideologists-qua-economists like Professor Milton Friedman of the Hoover Institution assert this as a moral imperative. Yet if we travel back in time five or six hundred years, the European corporations of that era were very different from those of today. They were regulatory bodies, not acquisitive ones, which served to reconcile individual behavior with larger social ends. Gilds, boroughs, monasteries, and the like—today we would call them "mediating institutions," bulwarks of the civil society that has fallen into such disrepair. "Corporations have constituted, for the most part, the framework of society subordinate to that of the state," as John P. Davis put it in his exhaustive two-volume study back in 1905.

When the British Crown was eager to claim the wealth of the New World, it required commercial ventures of enormous scale. But few investors would come forward because they could be held responsible for the enterprise as a whole. The solution was the "joint stock company," the forerunner of today's business corporation. The corporate entity became a legal buffer zone between the enterprise and the actual owners. Ownership and responsibility were severed, so that a larger enterprise could result.

This was a radical step. Individual responsibility is a bedrock principle of the common law tradition. People must stand accountable for their actions and those taken on their behalf. To compromise this principle, something had to be given in return; specifically, the enterprise that gained this exemption had to serve the public in concrete ways.

Accordingly, in the early days, corporate charters were not granted to all comers the way they are today. They were granted selectively, one by one, for ventures that seemed worthy of public promotion and support. The trading companies that served as commercial agents of British foreign policy were prime examples; in today's terms they were much like Amtrak or the Tennessee Valley Authority.

This basically was the form of corporation that existed in Adam Smith's day. When Smith called England a "nation of shopkeepers," he was speaking literally. His notion of a divine market mechanism guiding individual ambition towards the betterment of all was premised on a world of individual business people, rooted in locality and place and subject to social mores and conscience. In one of the less prescient passages in the *Wealth of Nations*, Smith contended that corporations would never amount to much in the international marketplace. They were too cumbersome and bureaucratic, he said. Individual business people, with their superior "dexterity and judgment," would run rings around them.

In other words, the notion of the invisible hand is premised on a pre-corporate world that no longer exists. So too were the founding premises of the American republic. The colonists were extremely suspicious of corporations, which were seen as oppressive agents of the Crown and poten-

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tial usurpers of the public will. At the time of the Constitutional Convention, only some 40 business corporations had been chartered in all the colonies. Most of these were for bridges, toll roads, and similar public-works endeavors. So it's not surprising the Founding Fathers omitted the corporation from the scheme of checks and balances by which they hoped to keep institutional power under restraint.

Even as business corporations became more common, they stayed grounded in the premise that they were agents of a larger public good. Charters typically spelled out that the corporation in question was created to serve "the public interest and necessity." Some required shareholders to be local residents, and some even vested part ownership in the public. Before 1842, for example, the State of Maryland chose one third of the directors in the Baltimore and Ohio Railroad. There were also mandates to serve the public in specific ways: A bank charter in New Jersey, for example, required the company to help local fisheries.

"The corporation is a creature of the state," the Supreme Court observed in 1906. "It is presumed to be incorporated for the benefit of the public."

As decades passed, the nation's surging commerce pushed against these restraints. Legislatures were besieged by supplicants seeking the privilege of operating as a corporation. In addition, the corporate charter process had gotten a taint of special privilege. The result was the general incorporation laws, which made the corporate form available to everyone.

This didn't mean that the suspicion of agglomerated power had died, nor the conviction that the corporate privilege was connected to a public purpose. Until 1837, for example, every state still required that corporations be chartered only for a particular kind of business. It took almost half a century for states to permit blank-check incorporation "for any lawful purpose." Restrictions on size were common too. New York, which was not unfriendly to business, limited corporations to $2 million in capital until 1881; and to $5 million until 1890.

Similarly, as late as 1903, almost half the states limited the duration of corporate charters to 20 to 50 years. Legislatures would actually revoke charters when the corporation wasn't fulfilling its responsibilities. With the rise of corporate mega-trusts and the robber barons, the role of the corporation in American life became a topic of almost obsessive concern. The public wanted more accountability. They ended up with less.

The reason was an outbreak of corporate charter-mongering among the states that eventually dragged them all down to the lowest common denominator. The downward spiral actually began when John D. Rockefeller's lawyer concocted a way to evade the state charter laws. (The story is laid out in one of Ralph Nader's less-noted studies, called "Constitutionalizing the Corporation," which he wrote 20 years ago with Mark Green and Joel Seligman.) The device was the infamous secret trust agreement which enabled the Standard Oil empire to grow far beyond the size the state laws permitted. Rockefeller's conniving set off a wave of trusts—whiskey, sugar, lead, and others—which came to control much of the commerce in their industries.

Eventually these agreements came to light, and the state courts struck them down as exceeding the powers granted in the charters of the individual corporations that comprised them. The charter laws had done their job. Therefore, the charter laws would have to go, and the first to fall was New Jersey.

As Nader's study recounts, in 1890 a young New York lawyer named James B. Dill made an offer that the governor of New Jersey couldn't refuse. Enact the most liberal and permissive law in the land, Dill said. Let corporate managements do whatever they want, shareholders and public be damned. Corporations will flock to your state for new charters; revenues will pour into the treasury. Plus the clincher: Dill would form a company to handle the paperwork for the incorporating process, and the governor would get a cut.

Soon, Standard Oil, U.S. Steel, and other major companies were lining up for New Jersey charters. Prompted by the permissive new laws, there was an orgy of mergers and combinations, which hastened America's transition from a nation of entrepreneurs to one of corporate employees.

But politically, the New Jersey regime reaped its reward. By 1905 the state was running a surplus

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of almost $3 million. "Of the entire income of the government, not a penny was contributed directly by the people," the governor boasted. These revenues enabled him to push a rash of new social programs and public works projects, all without burdening ordinary taxpayers. In other words, tax-and-spend liberalism was boosted by the movement that set corporations free of every vestige of social accountability and restraint.

Other states were helpless to counter New Jersey's dirty deal. So, why not get a piece of the action? Those revenues were pretty attractive, as were the other benefits that flowed to politicians more directly. West Virginia was among the first; the "Snug Harbor for roaming and piratical corporations," a contemporary legal treatise called it. Maine, Delaware, Maryland and Kentucky followed in this new race to set the lowest standards and collect the most booty. At one point, the New York legislature enacted a special charter for the General Electric Company, based on the lax New Jersey standards, to prevent the company from absconding across the Hudson River. The Commission on Uniform Incorporation Law declared that the evolving system ensured "the maximum protection of fraud" and "the minimum of protection and cover ... for honest dealing."

There was a brief flurry of rectitude in New Jersey when Woodrow Wilson became governor in 1910. But others were only too ready to fill the temporary gap at the bottom—Delaware most of all. By the time of the Great Depression, Delaware had become home to more than one third of the industrial corporations on the New York Stock Exchange; 12,000 corporations claimed legal residence in a single office in downtown Wilmington.

When other states made their own runs for the bottom, Delaware dropped standards even further. In the 1960s, it simply turned over the drafting of a new law to a bevy of corporate lawyers. The legislature rubber stamped the results. By the mid-1970s, half the nation's largest 500 corporations were chartered in tiny Delaware. Now only directors, rather than shareholders, could propose amendments to the corporate charter. On top of that, corporate officers and directors could be indemnified for court costs and settlements of criminal and civil cases without shareholder approval.

In other words, the concept of individual responsibility for corporate management was entirely out the window. This trend had troubled the upholders of traditional morality from the very beginning. "The pernicious movement has decreased the personal responsibility on which the integrity of democratic institutions depends," Professor Davis observed seven decades earlier. William Carey, former chairman of the Securities and Exchange Commission and author of a leading textbook on corporate law, declared that the only public policy left in Delaware's corporation law was "raising revenue."

Such developments did not go unnoticed politically. Theodore Roosevelt, a Republican, actually established a Federal Bureau of Corporations to monitor the impact of these new and disruptive entities. Presidents Roosevelt, Taft, and Wilson all proposed federal chartering for large corporations, in order to stop the state charter-mongering and set minimum standards for national businesses. (Most corporations chartered in Delaware had little presence there besides a file in a lawyer's office.) These corporations "are in fact federal," Taft said, "because they are as wide as the country and are entirely unlimited in their business by state lines."

But Congress chose instead the routes of antitrust and regulation, trying to restrain what the permissive state charter laws had set loose. The first big growth of federal government came from new agencies, such as the Interstate Commerce Commission and the Federal Trade Commission, that were supposed to keep the burgeoning corporations in check.

In the New Deal-era, people like David Lillienthal, the first chairman of the TVA, tried to tilt the balance back toward individual entrepreneurs and local enterprise. But this group lost out, first to the megaplanners, and then to the new Keynesian technocrats, who reduced the economic problem to the manipulation of the valves and levers of taxation, expenditure, the money supply, and the maintenance of "consumer demand." Those who raised questions about corporate governance and the scale of enterprise were dismissed as descendants of the bumpkins and small-town nostalgics whom Richard Hofstadter ridiculed in *The American Political Tradition.*

Chartering A New Course

That is pretty much where things stand today. The Keynesian policy nostrums no longer hold,

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What "Pitchfork Pat" (and You) Can Do For Workers

Rare is the Brooklyn pensioner who can say she changed the lives of thousands of workers, but Marie Walsh did just that. She didn't run for office or write articles. She merely inquired about where her pension money was invested.

In 1984, the trustees of the $70 billion New York City Comptroller pension funds were meeting to discuss the Sullivan principles, which guided corporate investment in South Africa. Walsh went to the meeting. Why, she asked the trustees, weren't they also looking at companies doing work in Northern Ireland, where Catholic workers were being heavily discriminated against? The trustees considered her question, and then investigated her charge. Soon after, they drew up the MacBride Principles, which insisted that American companies in Ireland halt discriminatory employment practices. They convinced other funds, state legislatures, and hundreds of companies to adopt the principles. Ultimately, the principles led to an anti-discrimination employment law in Britain.

What Walsh did—raising a question at a trustee meeting—is within the rights of every American with money invested in a pension fund. Yet few workers or pensioners exercise those rights; most Americans have no idea which companies they own stock in.

So American workers watch the nightly news and mutter about the layoffs from corporations; sometimes they themselves are laid off. The irony is that together, they *own* corporate America. More than 50 million Americans own stock, enough that if they exercised their rights and responsibilities as company owners, the results could be revolutionary.

The real players are the "institutional investors," such as public and private pension funds, and most workers have a stake in them. Pension funds alone owned 27 percent of all outstanding U.S. equities as of the end of 1994, according to *The Brancato Report on Institutional Investment*. Other institutional investors with ready-made constituencies among their shareholders include religious institutions such as the Catholic archdioceses; large foundations; and even some mutual funds set up specifically for stockholders in search of socially responsible investing. Most institutional investors are invested for the long haul—10 or 20 years—and their holdings are so large they can't do the "Wall Street walk" and quickly sell out. Their only hope of influence is to encourage or force a company to reform. They are long-term owners, not short-term traders.

It was the corporate raiders of the 1980s who laid the foundations for shareholder influence. Until then, institutional investors were sleeping giants—they put up money, then shut up. But suddenly, shareholders saw management using *their* money to entrench itself against hostile takeovers. Up sprang a shareholders' movement in which the owners, and not just the managers, of capital began calling the shots.

Led by the California Public Employees Retirement System (CalPERS)—which currently has $96.9 billion in its portfolio—public pension funds began targeting companies who were underperforming in comparison to their industry average. The investors would first try quiet diplomacy, then pull out the big guns: *Wall Street Journal* ads and other bad publicity, shareholder resolutions, proxy votes. They have lobbied for more responsive directors, for disclosure of executive compensation—and sometimes for new executives. As such targeting has become routine, companies from Sears to Kodak have felt investors' wrath.

By performance measures, shareholder activists have been extraordinarily successful. Companies pushed to reform by members of the Council of Institutional Investors subsequently outperformed the Standard & Poor 500 by 14 percent, according to a study by the Council. Institutional investors—particularly pension funds—essentially stopped Kirk Kerkorian's takeover attempt at Chrysler because they opposed his plan to deplete the company's cash reserves.

But the activism, to date, has been almost exclusively about shareholders' rights—specifically, the right to maximize investment return by influencing corporate governance. For those who despair at corporate callousness, the real potential of shareholder activism lies in getting shareholders to recognize their *responsibilities* as company owners.

To date, this type of activism has been limited in scope, but effective where it has weighed in. The most visible campaigns have involved human rights in countries where American companies do business, such as South Africa or Nigeria. But there have also been shareholder campaigns on everything from glass ceilings to environmental protection.

One recent, and inspiring, example came from the New-York based Jesse Smith Noyes Foundation. The foundation was heavily invested in the computer chip maker, Intel. At the same time, it was helping the Southwest Organizing Project, a community-based organization in New Mexico, battle Intel's usurpation of water and land at its New Mexico plant. The foundation decided to take an obvious step: to use its status as an Intel shareholder—meeting with management, bringing shareholder resolutions—to force Intel to negotiate with Southwest. Intel eventually agreed to the foundation's demands.

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Another unexpected flare of shareholder activism came in 1992, when Sire/Time Warner released rapper Ice-T's "Body Count" album, with the song "Cop Killer." There was a national outcry, but the most intense pressure came from Time Warner shareholders—particularly police pension funds. Some divested; others protested at the annual meeting. Distribution of "Cop Killer" was stopped; Ice-T and Time Warner later parted ways.

Labor unions, meanwhile, have brought the spirit of labor organizing to their status as major investors. The carpenters' union pension funds, for example, pressed Dow Chemical to improve workplace safety, and even visited plants to check on conditions. Several years ago, the AFL-CIO adopted a set of proxy guidelines that are a model for shareholder responsibility. They advocate the consideration of employee security and compensation in proxy voting; and they encourage funds to prioritize domestic over foreign investment.

In their concern for American workers and communities, though, labor unions too often are the exception. Socially responsible institutional investors are reluctant to confront corporate management on bread-and-butter issues relating to American workers. Shareholders can't—and shouldn't—micromanage the companies they invest in. But they could push for a set of guiding principles, such as avoiding cataclysmic layoffs or investing in retraining, that make clear their commitment to balancing the interest of other corporate stakeholders, from employees to the local community, with profitability.

Larger numbers of institutional investors aren't more active in part because of political dynamics in the investment community. Private pension funds are the largest institutional investors out there (they own 16 percent of all outstanding equity), and they are supposed to be independent of company management. Clubby corporate culture ensures that's rarely the case. Few private pension funds ever attempt to influence the corporate governance of the companies they hold stock in. And at public pension funds, the state or local politicians who sit on the board—or control who does—tend to dissuade activism that might alienate corporations. When one Wisconsin state pension fund targeted T. Boone Pickens, it got an angry call from Gov. Tommy Thompson saying "lay off"—he was trying to lure Pickens to do business in the state.

Other barriers to shareholder activism are regulatory. In 1992, for example, under pressure from the Business Roundtable, the Securities and Exchange Commission ruled that *all* issues pertaining to the general workforce (any worker below top management, in other words) were "ordinary business," and therefore beyond shareholder domain under SEC regulations; that means everything from whether a company discriminates in hiring to issues of fair compensation and safe working conditions. The ruling seemed designed to muzzle investors who *should* monitor a company's employment principles—because as owners they are responsible for the welfare of employees and communities.

Under President Clinton, the SEC has not reversed the 1992 ruling. "The SEC [is] bending over to encourage companies to dodge the scrutiny of their own shareholders on polices and responsibilities the administration is encouraging," says Diane Bratcher of the Interfaith Center on Corporate Responsibility, which represents 275 religious institutional investors. She's referring to Robert Reich's support for tax-code carrots and sticks to make corporations behave responsibly. As Bratcher suggests, doesn't it make more economic and political sense to encourage shareholders to wield the sticks themselves?

Wary money managers and trustees tend to portray such activism as a threat to profits; it's either social responsibility or maximum profitability, they think, and a fund manager's duty is to the latter. That dichotomy, though, is a false one: In the long run, how a company treats its workforce has direct impact on the value of its stock. A company that's managed well should never have to resort to the draconian layoffs that AT&T enacted. And insecure, underpaid, or undertrained employees aren't going to be the most productive.

Edward Durkin of the United Brotherhood of Carpenters and Joiners of America notes that when his funds look at a company's health and safety activities, they are acting as a representative of labor, but also as investors: They don't want to absorb liability for regulatory violations or workplace accidents. (The same concern, incidentally, may shake up the tobacco industry; worried about a massing stormfront of anti-tobacco litigation, some institutional investors are beginning to rethink their investments, or press conglomerates to spin off tobacco units or eliminate marketing practices that seem to target underage smokers.) Corporate accounting procedures, unfortunately, are geared to short-term, quantifiable measures—investment in labor is a cost, not an asset. Reforming those methods could help; so could AFL-CIO efforts to survey companies on issues like employee training.

Individual investors, of course, have far fewer shares, and therefore less clout. But they can still make a difference; any shareholder can bring a resolution or attend an annual meeting. Indeed, as the spring season of annual meetings approaches, who better than "Pitchfork Pat" Buchanan—who owns stock in AT&T and other companies whose labor policies he's deplored—to lead stockholding peasants in storming corporate castles? —*Amy Waldman*

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but the fixation on scientistic "macro" policy still dominates the national debate. Just get taxes right, cut federal spending, and the Red Sea will open wide. When a Robert Reich or a Pat Buchanan suggest that something more is involved—that the economic entities that do so well in America perhaps owe America something in return—they are dismissed as demagogues and know-nothings.

But Buchanan has let the genie out of the political bottle. Whether you agree with his remedies or not, he has tapped a genuine feeling of betrayal. Americans think the high and mighty as well as welfare mothers have responsibilities—and that corporate America has been obscenely derelict in this regard. *Business Week* put it well when it observed, "U.S. corporations may have to strike a new balance between the need to cut costs to be more globally competitive, and the need to be more responsible corporate citizens."

The problem, of course, is that corporations today aren't constituted to be responsible. The large corporation whose stock is traded publicly on stock exchanges has become an extension of the Wall Street mind. A CEO who did what Aaron Feuerstein did—that is, who forsook a measure of profit for acts of decency to employees and the community—could have furious portfolio managers to contend with. Shareholders might have his or her scalp. The publicly-traded corporation does to the economic realm what the political action committee does to politics—it reduces people to the lowest common denominator of self-seeking, and subordinates their best instincts to an institutional mandate to maximize pecuniary gain.

This might have been tolerable for a period in our history. But in a global economy, with the sense of community coming apart, institutional self-interest has flown out of orbit, sweeping up even smaller companies in its centrifugal pull. Yvon Chouinard, founder of Patagonia clothing, has put the problem eloquently. The goal in the entrepreneurial world today is to "grow (your business) as quickly as you can until you cash out, and retire to the golf courses of Leisure World," he wrote. "When the company becomes the fatted calf, it's sold for a profit and its resources and holdings are often ravaged and broken apart, disrupting family ties and jeopardizing the long-term health of local communities."

Chouinard, a mountain-climber who happened into the gear-and-clothing business, has gone the opposite route. Instead of cashing out, he decided to keep the company at a scale at which it can still embody the values he seeks to live.

You can't legislate that kind of decency. But it is possible to encourage the kind of enterprise that gives it room to operate. Individual and family owners, for example, at least have the ability to temper their profit-seeking with civic and other concerns. (The Cleveland Browns' owner, Art Modell, is a good reminder that not all of them will.) Family-owned newspapers have done this for decades, which is one reason that the corporatizing of the media is a tragedy.

Local ownership also can have a salutary effect, even from a business standpoint. Consider the Green Bay Packers football team, which is owned by about 2,000 individual shareholders, most of them residents of Green Bay. The Packers have a stability that is rare in business today, let alone pro sports. Packer fans don't worry that a greedy owner will skip town—because they are the owner. The Packers won the first two Superbowls and made it to the conference championship this year. Yet NFL rules now bar franchises from Packers-style local ownership.

If community-centered ownership works in pro sports, which have become the ultimate business, then why not in other businesses? Inner cities, for example, have trouble luring supermarkets and other essential services. There's lots of money to be made, but it takes a level of patience and hands-on commitment that most major corporations aren't willing to expend when there's such easy pickings in the suburbs. Local and community-based ownership can fill in the gap.

Employee ownership works much the same way. It's not a panacea, but an employee-owned company is less likely to move jobs abroad or lay off 40,000 workers when business is booming. It is more likely to take seriously the impact of business decisions on the community at large. *The New York Times* recently highlighted this balance at United Airlines, where employee owners resisted taking over USAir because it would have caused layoffs there. But United has also found that employee owners are also willing to make sacrifices for the company, such as accepting pay freezes, in return for job security.

Unfortunately, the most common form of employee ownership is the Employee Stock Ownership Plan (ESOP), which is a passive investment

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can be tested. We can only look, in the words of John Stuart Mill, to experiments "cast up by history." And so, in the spirit of historical inquiry, I set out to compare a century's worth of data on economic growth with the marginal tax rates on the top bracket of income and the capital gains taxes in the same periods. Wading through the data might not be as fun as beach-blanket bingo, but the question at hand is a crucial one: Do lower taxes correlate with higher rates of growth? Unfortunately for the supply-siders, the numbers contradict their theory. The fact is that high income tax rates and healthy growth have often coexisted; so have high capital gains tax rates and growth.

Depressing Data

Modern day income taxation began in 1913 with the adoption of the 16th Amendment to the Constitution, which allows the federal government to tax income. The 81 years from 1914 through 1994 included all of the turbulent upheavals of this century—World War I, the Great Depression, World War II, the Korean War, and the Vietnam War—and dramatic fluctuation of tax rates. But there were 11 periods during which the tax rate for the top personal income bracket was about the same. The longest of those periods was 18 years, the shortest one year. Those 11 periods are the key to testing the supply-side theory.

The numbers show two things quite clearly: First, more often than not, tax rates and growth rates *move in the same direction*—in other words, higher taxes accompany higher growth, and vice-versa. Second, the relationship between changes in tax rates for income and capital gains and economic growth is extremely weak. In other words, considered over history, changes in the top bracket rate don't seem to make much of a difference to the economy as a whole.

Let's start with the "Roaring Twenties," 1922 to 1929. Supply-siders regularly use this period to buttress their arguments, since tax rates on top bracket families were cut by 57 percent over these seven years and real growth averaged a healthy 4.5 percent annually. But keep in mind that this was also the period of a strong recovery from the exceptionally severe depression, which reached its low point in 1921. Real output dropped by a cumulative 16.4 percent from 1919 through 1921, but this was followed by a robust recovery over the next two years. If we remove the recovery years from the picture, the economy's real growth rate for the remainder of the Roaring Twenties was 3.6 percent. This is a good figure, but not exceptional; it's about the same as the long-term historical average of about 3.5 percent (measured since 1893).

The 1930s brought the Great Depression—and more news to warm supply-siders' hearts: an apparent relationship between an increase in tax rates and a decline in growth. The first sharp downturn, the October 1929 stock market collapse, came on the heels of a sharp tax increase pushed through Congress by Herbert Hoover. Output declined 33.9 percent from 1930 through 1933.

Then, in 1934, the economy began to recover. Over the next three years, real output grew at an astonishing annual average of 11 percent. Encouraged by this growth, the Roosevelt administration in 1936 raised the top bracket tax rate to 79 percent hoping to balance the budget. The result was a disaster: The recovery ended abruptly. Real output fell by 5 percent in 1938, and another 8.6 percent the next year. Again, on the face, the 1930s would seem to confirm supply-side theory. But the Hoover and Roosevelt tax increases, while bad policy because they exacerbated declines in output, did not *cause* those declines.

The third crucial period for testing supply-side economics is the "Reagan Revolution"—1982 to 1986. Reagan entered office promising sweeping tax cuts, and he delivered—particularly for those in the top bracket, who saw their rates decline 29 percent. As I've noted, Reagan's promise that increased output would bring in more tax revenue and balance the federal government's budget turned out to be a false one. Still, supply-siders find solace in the fact that the annual average growth rate increased in these years compared to the previous 18. The increase, however, was a minuscule 0.3 percentage points. If you factor out the unintended Keynesian effect of Reagan deficits on the economy, the growth rate is entirely negligible.

So, only one of these three periods—the 1920s—offers much solace for supply-siders. The 1930s are inconclusive. And in Reagan's first six years in office the economy grew only moderately, despite massive priming of the pump through de-

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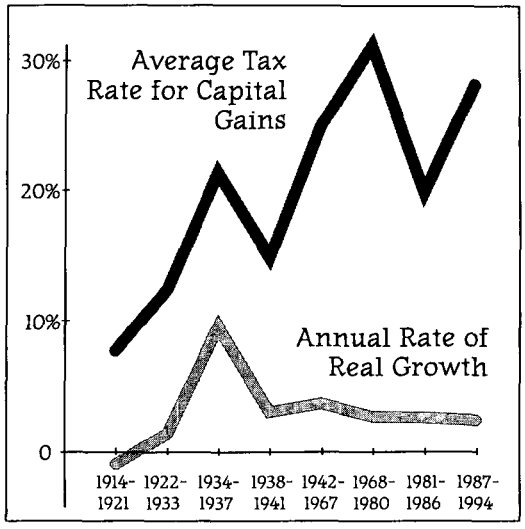
fense expenditures and tax cuts.

If you follow this sort of analysis through each of the 81 years from 1914 to 1994, you find much the same story. Eliminating both world wars and the transition years immediately following each war, we are left with 69 years in which history has cast up "experiments" for testing supply-side theory. *In 55 of those years—80 percent of the time—higher top bracket marginal tax rates are associated with higher growth rates—not lower ones.*



Consider the period between 1950 and 1963. Today there is much nostalgia for this time, but not among supply siders. After all, the top bracket marginal tax rates were higher than at any time in the post-World War II era (91.1 percent). At the same time, the annual average growth rate hit a postwar high of 3.8 percent. Even excluding the Korean War years, when a new surge of military spending pushed real growth up to an 8.5 and 10.3 annual rate, the fifties' growth rate averages 2.8 percent—the same as during the Reagan '82 to '86 period. This growth coexisted with extraordinarily high tax rates.

The history of changes in capital gains taxes is even more unfavorable to supply-side theory. For five of the seven periods following 1921, the relation between an increase in the capital gains tax and growth was a positive one—they both went up; this was true 52 of the 73 years after 1921. The rate went up and growth went down in only two periods.

The problem with capital gains tax cuts is not just that the numbers contradict the supply-side hypothesis. It's also nearly impossible to devise a capital gains tax break that truly rewards enterprise, as opposed to mere speculation. As Keynes explains in his classic, *The General Theory of Employment, Interest, and Money*, enterprise involves the production of new, real wealth, such as starting a new business, building a new factory, or developing a new product. Speculation, on the other hand, involves an increase in the monetary value of things that already exist; this adds to the wealth of individuals, but not to the real wealth of the nation. The reality is that existing practices in the taxation of capital gains reward speculative activity as much as they do enterprise activity. And, ultimately, it is the bulk of Americans who suffer from the lost tax revenue. The Reagan tax cuts, remember, weren't just a failed experiment in that they failed to produce the promised growth. They also saddled us with so much debt that 15 percent of the annual federal budget is consumed entirely with interest payments.

Despite this evidence, we can be nearly certain that the supply-side fantasy will continue to command attention in the Republican party. Bob Dole, to his credit, is skeptical of supply-side arguments. His reluctance to embrace tax cuts, in fact, is what got Steve Forbes into the race to start with. Even though he's conceded the race, Forbes is unlikely to concede the validity of the evidence laid out in this article. But that's no reason for the rest of the population to be taken in.

This argument is not merely about numbers, of course. It's also about psychology. Supply-siders would have us believe that people are driven to work and achieve solely by the desire to accrue money, but that is clearly not true. If they had to pay more in taxes, would Steven Spielberg, George Soros, or Bill Gates work less hard? Of course not. These men—like most Americans—are driven not just by monetary reward but also by prestige, power, and genuine love of their work. Furthermore, a dollar earned but taxed heavily is still more than nothing. Ronald Reagan's acting income was taxed at 91.1 percent—a rate no one would dream of enacting today—but he not only didn't turn down any good roles, he also made all those monkey movies.

Yes, Forbes, Wanniski, Kemp et al. will keep rambling on about the flat tax. But the numbers—and theory—of supply-side arguments just don't add up. Now it's as clear as ever: Snake oil remedies are still snake oil, and voodoo economics is still voodoo economics. □

Graph by Jim Holloway

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Memo of the Month

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Mark Harden
City Editor

Nov. 21, 1995

To: Staff
From: Harden

I can't believe I'm writing a note like this, not being a fifth-grade teacher, but here goes:

I'd like the rubber-band wars to stop. And the throwing of pencils, paper wads and fruit.

I've had complaints about this from your colleagues. I think it's reasonable to expect that you can sit at your desk and not be bombarded with flying objects.

Again, unlike your fifth-grade teacher, I don't want to make too much of this. But I am prepared to take further action if this doesn't stop. Like, maybe move some people.

Settle down, people.

HARDEN

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An End to the Free Lunch?

Not quite. That lobbying reform passed by Congress last year turns out to have more holes than a hunk of swiss cheese

BY ALICE LOVE

On a Monday morning last December, as Capitol Hill braced for the implementation of restrictive new gift rules, hundreds of House staffers packed a large Rayburn Building committee room. Ellen Weintraub, counsel to the Committee on Standards of Official Conduct, was there to tell them how the rules would work.

"We are here to explain the gift rule and not to praise it," Weintraub began, playing to a crowd of staffers about to lose the few remaining perks of their low-paying, high-pressure jobs. Weintraub confirmed that starting January 1, House members and their staffs would be barred from taking virtually anything of value—whether lunch, a round of golf, or Super Bowl tickets—from anyone. "But there are 23 exceptions to the gift rule," she added quickly, "and that's mainly what we're going to talk about here today."

Both the House and the Senate have been bound for nearly four months by similar versions of gift reform, passed separately in each chamber last year. In theory, the House members and staff are under a near total ban, and senators and staff can receive only gifts worth less than $50 (with a $100 total limit on gifts from any one source). The idea was to stop the most egregious symbols of buying influence: the power lunch, the expensive junket, the "quality time" spent by lobbyists with public officials.

Judging from the early goings, though, corporate big-wigs and their lobbyist proxies will still have ample opportunity to wine, dine, and fête members of Congress and their staffs—at charity events and political fundraisers, at "widely attended" gatherings, with carefully-designed dining, and on "official" trips. In large part, that's because the House and Senate ethics committees—the sole interpreters and enforcers of the gift rules—are giving the go-ahead and bending over backwards to be accommodating.

In February, for instance, both committees authorized general attendance by members and staff at the free annual "Louisiana Alive!" food and music festival—a kick-off of a three-day Washington Mardi Gras celebration at the Capitol Hilton. Approval was given on the grounds that the event was "widely attended" despite the fact that the party, featuring Cajun chefs, bands, and goodies imported from the Bayou State is paid for with $6,000 contributions from lobbyists and corporations, and has no pretense of being anything other than a chance for congressional and special interest types to share a lavish party. Neither committee recognized the obvious: that there could be no imagin-

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able official purpose for those outside the Louisiana delegation to be at "Louisiana Alive!"

In another botched test-case, dealing this time with the sticky and controversial "personal friendship" exemption to the gift rules, House Transportation and Infrastructure Committee Chairman Bud Shuster (R-Pa) says he was given permission to accept free lodging at the Washington home of his former chief of staff, Ann Eppard, who now is a lobbyist for companies and industry groups with business before Shuster's panel. (Eppard is also one of Shuster's top campaign fundraisers.)

Watchdog groups like Common Cause, who had nothing but praise for gift reform last year, are taking a second look. "It seems that too often someone calls over [to the committees] and they say 'Now, tell me what it is you want to do,' and then they say 'This is how you can do it," says Meredith McGehee, legislative counsel to Common Cause. It's an age-old problem: The fox is standing guard over the hen house. Members of the ethics committees are supposed to enforce rules on the same colleagues they rely on every day for legislative support. So far, it seems, the committees have been far from strict. In the Senate, says one lobbyist, the approach has been to try "to reassure ... that these rules aren't going to be as restrictive in impact as they appear."

House and Senate guidelines may yet tighten the screws. But judging from the past four months it is likely that privately funded congressional perks will prevail—particularly with the following exceptions written into the gift rules.

Have lobbyists, will travel: Privately-paid travel by members and staff can no longer include purely recreational junkets and must be publicly reported within 30 days. But it doesn't look like much has changed beyond that.

Technically, lobbyists aren't allowed to pay directly for a member's travel, but the ethics committees have decided that in this case "lobbyists" means only "individuals who must register under the Lobbying Disclosure Act of 1995. *Organizations* which must register under the LDA may sponsor trips" (emphasis added).

This means that the Edison Electric Institute, an advocacy group for the electric power industry that retains nine in-house lobbyists and three outside firms, could fly congressional staffers to events in Orlando and Phoenix this winter to "meet with CEOs affected by proposals to deregulate the electric industry." Many of the staffers on these trips work for key members on Edison's lobbying list. And letters sent to these staffers detailing the money spent on them were signed by a lobbyist if there ever was one: John Neumann, Edison's vice president for government relations.

Senate Majority Whip Trent Lott (R-Miss) took advantage of the loophole allowing "official" trips by jetting off to Aspen for three days in February, courtesy of Domino's Pizza Team Washington. He was there to give a speech to the "team's" franchisees, though he could more easily have caught a $15 cab ride from Capitol Hill to the group's Alexandria, Virginia, headquarters. But because he was in Aspen anyway, Lott spent an extra day in the Rockies, which cost him only his room and board. His trip cost Domino's $2,436, including a $55.35 phone bill.

Finally, though members on trips aren't allowed to take in a football game or the opera at someone else's expense, they can buy tickets from their hosts at face value. It's a loophole that turned some lobbyists into reverse scalpers for the 1996 Superbowl, acquiring last-minute tickets for several thousand dollars apiece and then selling them to officials for the much lower listed price.

Charity begins at home: Members can still accept free tickets to charity events in Washington —or anywhere else they happen to be for "official" or personal reasons. The ticket must come from the event sponsor, presumably meaning the charity if you're a stickler.

The ethics committees in the House and Senate apparently are not. Both gave their blessing for a gala premiere of the movie "Andersonville," about the historic Civil War prison in Georgia, at Ford's Theater in Washington on February 7, and for a VIP dinner beforehand. Half of the 100 guests at dinner were members of Congress. Though both events were designed to benefit the National POW Memorial Museum, members were invited and hosted by the event's sponsor, Ted Turner.

Though a lobbying firm can no longer give their tickets to members of Congress and their staffs, charity groups are catching on to the fact that they can facilitate seating arrangements or golf foursomes. Dan Larson, who organizes the "King of the Hill" charity tennis tournament to benefit kidney disease research, said he's upped his fundraising goal from $20,000 to $50,000 for this year's event, which will be held next month at the Woodmont Country Club in Bethesda. "The event attracts people who like to support us and want to play tennis with a congressman or an aide," Larson explained.

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"Because of the limited access people have to members now, [the gift rules] might actually give us a leg up."

A meal is in the eye of the beholder: While the power lunch or dinner where a member or staffer's tab is picked up by a lobbyist is out, power hors d'oeuvres are definitely in. There is an exception in the gift rules for "food or refreshments of a nominal value offered other than as part of a meal." And while it's hard to hold a catered reception in Washington for less than $50 per person, the ethics committees are saying that most such events are permissible. One lobbyist shared the new ethics-devised "toothpick standard" for what's acceptable: "Don't have tables or create obvious opportunities for folks to sit down. Serve bit-sized chunks of food that you can eat with your fingers. Provide small plates and no silverware." Lobbyists say the fixings are somewhat less lavish—table wines and beer rather than champagne, for instance. Chocolate-dipped strawberries are still around, but carving tables piled high with roast beef are out. Go figure.

The other popular loophole for wining and dining members is to take advantage of the moment you're passing them a check. Keep in mind, members of Congress can't eat a $51 lunch, but they can accept a $1,000 campaign contribution. And "fundraising event[s] sponsored by a political organization" are still allowed. That's why corporate clients making campaign contributions are now more likely to do it at small, intimate gatherings—say at corporate headquarters or on the golf course—rather than at a huge gala. In other words, if you're going to spend money on a member anyway, you might as well get in some quality schmoozing.

One bright spot about the gift ban is that it beefed up disclosure requirements—so citizens can get a better idea who may be buying influence. Otherwise, though the gift ban is a step in the right direction, it's as ineffective in curbing lobbyists as a picket fence would be at stopping a flood. Without clear limits, lobbyists say, they will take advantage of every loophole—assuming that the competition is doing the same. You can blame lobbyists, but the real ire should be aimed at Congress. They stalled on the gift ban for years, passed it with glaring exceptions, and are interpreting the rules as liberally possible. Someday Washington's lobbyist culture may see real reform, but it hasn't happened yet. □

Who's Who

The killer **Clinton** campaign ad for the fall has alreac been produced and tested in 27 states. It revolves around videotape of **Bob Dole** bragging that he voted against tl original Medicare bill, and seems to do very well in worl ing seniors into a lather. Look for the Dole campaign return fire with their own smoking gun tape—of Clint saying he thinks he raised taxes too much....

Christopher Matthews has a book coming out on tl relationship between **John Kennedy** and **Richard Nixo** One anecdote comes from **Pat Hillings** who was trave ling with Nixon in the early months of 1960:

"Seated on the aisle next to Nixon, Hillings sa **Joseph Kennedy, Sr.**, heading toward them. 'I want talk to you, Dick,' the elder Kennedy said as he can within speaking distance. Giving up his seat, Hillin heard what Kennedy had to tell the vice-president. 'I ju wanted you to know how much I admire you and wh you've done in the **Hiss** case and in all the anti-comm nist activity of yours.' Then after a few minutes more conversational pleasantries, the ambassador laid out h fallback position for 1960. 'Dick, if my boy can't make I'm for you.'"...

Diane Blair may be **Hillary Clinton**'s best pal, nights spent as a White House guest are any measur We're told she has spent at least 80 there since the inaug ration. She is the wife of **James Blair**, who gave Hilla that nifty advice on how to make a fast buck—one hu dred thousand of them to be exact—in commodities tra ing. One reason for Diane Blair's Washington visits is th she's on the board of the Corporation for Public Broa casting....

If **Bob Dole** loses in November, he not only won't b president, he may not even be majority leader. The a sertive, ambitious **Trent Lott**—currently the majori whip—is eager for Dole's job. And, especially if Dole badly defeated in November, Lott's Republican co leagues may give it to him....

Jennifer Dunn, a House Republican from the state Washington, has filed ethics charges against House M nority Leader **Richard Gephardt**. She alleges that h avoided $17,680 in capital gains taxes by claiming h North Carolina seashore condominium was a rental eve though he had gotten a lower interest rate loan with a lov er down payment by promising that the house would n be rented, agreeing to "use the property only as the bo rower's second home."...

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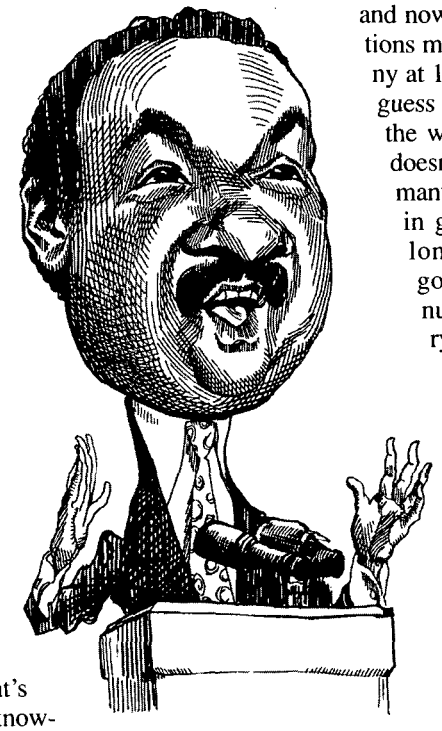
Boutros Boutros Bye-Bye?... Sit, Shelley, Sit ... Hillary's Best Pal...

Even though he has close to a lock on the GOP nomination, doubt remains as to whether **Bob Dole** will ultimately win the presidency. But there is one victory of which he's sure. He is the champion corporate-jet freeloader. The *Monthly* first noted the majority leader's preeminence in this category way back in the 1980s. And we are indebted to *Time* magazine for a recent update which shows that in the first nine months of 1995, the senator got a net benefit of $273,588. "Freeloader" is a bad unfair, but what Dole did get was use of a Lear jet, Gulf Stream, or another fine aircraft for the price of a first-class ticket on a regular airline....

Another possible scandal for the Democrats involves Secretary of Commerce **Ron Brown**. According to **Andy Thibault** of *The Washington Times*, an Oklahoma company, Dynamic Energy Resources, put Brown's son **Michael** on its board at $8,300 a month, gave him stock worth $500,000 and a membership valued at $60,000 in the Robert Trent Jones Golf Club in Gainsville, Virginia. The mother of Ron Brown's special assistant, **Helen Yee**, was also put on the Dynamic Energy board. The company's president, **Nora Lum**, just happens to be a major contributor to the Democratic party and, according to Thibault, "worked with Ron Brown on fundraisers when he was a lobbyist and chairman of the Democratic National Committee." Did the Secretary of Commerce benefit from the sums paid his son and his assistant's mother? His attorney says Brown never "knowingly received funds" from the company....



Last spring Republican National Committee Chairman **Haley Barbour** phoned Arizona House Speaker **Mark Killian**. "I thought he was kind of calling to congratulate us on Arizona's ability to bring forth the revolution on tax cuts and welfare reform and medical savings accounts. And what does he do? He tries to get me to bring a [pro-]tobacco bill to the floor," Killian told *The Wall Street Journal*'s **Timothy Noah**, adding, "It ticked me off."

Is it possible that Barbour's call, which was originally reported by the *Arizona Republic*, and a subsequent similar call he made to Texas Governor **George W. Bush**, had anything to do with the $2.37 million the tobacco industry donated to the Republican Party in 1995? Just asking....

If there is anyone more dedicated to destroying **Hillary Clinton** than Hillary Clinton, it may be a Senate aide named **David Bossie**, who is key tipster for her main enemies, including **Rush Limbaugh**, **Al D'Amato**, **Lauch Faircloth**, and *The Washington Times*....

Travel agents aren't the only ones having their commissions cut. So, it appears, are campaign consultants. The White House has been whacking away at the commissions paid to its campaign media team, including **Dick Morris**, from 15 percent to 9 percent and now headed even lower. These reductions may simply reflect prudent parsimony at 1600 Pennsylvania Avenue, but our guess is that it is not totally unrelated to the well-known fact that **Harold Ickes** doesn't like Dick Morris. But our informants tell us that Ickes won't succeed in getting rid of Morris, at least as long as **Bill Clinton**'s polls look good. If, however, the President's numbers head south Morris is history....

The U.S. government has told Czech president **Vaclav Havel** that he could have American support to succeed **Boutros Boutros-Ghali** as secretary general of the United Nations, according to **Stanley Meisler** of the *Los Angeles Times*....

At a **Pat Buchanan** rally in Memphis, the candidate's wife **Shelley** began looking a little wobbly after hours on her feet. Her husband offered her a chair, and said, "You go ahead and sit down. **Hillary** wouldn't, but you go ahead and do it." That, of course, left Mrs. Buchanan no choice but to stand. At a rally the next morning, Buchanan introduced his wife as "Hillary Rodham Buchanan."...

Campaign junkies are intrigued by the relationship between the **Buchanans**. Behind the scenes, she plays an active role in the campaign. But in public, she's assumed a **Pat Nixon** demeanor—always on stage, a few feet from her husband, with clasped hands and a fixed smile. She and her husband rarely touch in public....

—*Susan Threadgill*

Roman Genn

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Is the President a Waffler?

In some cases, yes. But part of the reason is that he shuns the easy answers of both right and left. Often, he ends up just where he should be

BY JEREMY PAUL

Though Bill Clinton has surely been delighted by the venomous brawl for the Republican nomination, that venom will soon be aimed squarely at the President himself. Republicans will call him a big government, tax-and-spend, pro-abortion liberal. And, of course, they'll brand him an inveterate waffler. "Bill Clinton," says Haley Barbour, chairman of the Republican National Committee, "shares with the hummingbird the incredible ability to turn 180 degrees in a split second."

This image has dogged Clinton from early in his presidency. A number of prominent campaign promises—to enact a middle-class tax cut, for example—were quickly abandoned. In 1995, the President suddenly supported balancing the budget in seven years. Even die-hard supporters threw up their hands in frustration when Clinton told a crowd of wealthy supporters in Houston, "You think I raised your taxes too much [in 1993]. It might surprise you to know that I think I raised them too much, too."

Reversals like these give Americans reason to doubt Clinton's sincerity. But if he deserves partial blame for his weak-kneed image, so does the narrow-minded press, the cynical opposition, and the contradictory wishes of the American people. It is crucial to discern where Clinton has truly "waffled" and where he's smartly compromised; where he's retreated in cowardice, and where he's changed course in the face of new information; where he refuses to take a stand out of political opportunism, and where his ambivalence reflects the ambivalence of the country. In 1996, many Americans are insisting on a leader who speaks for the sensible center. But Clinton's record of being punched in the nose for breaking with ideological extremes raises the question: Can we really handle a truly moderate president?

Imagine the scenario of two parents with a difficult teenage son. He doesn't do his schoolwork or chores; at times, he is openly defiant. One parent, call him the "conservative" father, offers a clear solution. "We're just not being tough enough. We have to have clear rules and impose swift, immediate punishment when they're violated." The other parent, call her the "liberal" mother, is equally certain. "Our problem," she says, "is that we aren't encouraging enough. We need to love and support him no matter what he does."

Broadly speaking, each parent represents an extreme ideological position. Conservatives want to be

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tough and demanding. Liberals want to be generous and forgiving. But most of us realize that neither position makes sense in all cases. Children need both understanding *and* a firm hand. With only the latter, they'll likely grow hostile and detached. With only the former, they may quit trying.

This is as true for stubborn questions of policy as it is for child-rearing. On welfare, for example, it doesn't make sense to offer the underclass only Horatio Alger tales and stern exhortations to "get a job." Without training and child-care, welfare mothers are likely to have a hard time surviving in the workplace. On the other hand, it is equally true that unlimited compassion—without any demands or expectations—can sap individual initiative and lead to permanent dependence. On this issue, as well as many others, Bill Clinton has smartly claimed the middle ground, proposing to limit welfare payments but also offer training and child-care. He also champions the positive role of government, but insists that it be more efficient and less expensive. On issue after issue, Clinton resists the formulaic approaches of both left and right, instead looking for reasonable solutions.

It shouldn't surprise us much that neither conservatives nor rabid liberals have much affection for this administration. But shouldn't a largely moderate nation cheer Clinton's efforts to steer a middle ground? Now that America seems convinced that government runs things poorly, the left's old love-affair with government programs is out of step with the country. Conservatives, meanwhile, want to return to laissez-faire capitalism and eviscerate environmental protection. Shouldn't most of us line up behind a President seeking a "third way"?

Much of the problem is that the press corps, while paying lip service to the country's desire for a centrist, still insists on viewing leaders through a prism of ideology. When Clinton emphasizes a theme associated with the left or right, he's often incorrectly portrayed as "lurching" in that direction or being chronically indecisive. He's "a President who wakes up every day on both sides of the street," Maureen Dowd writes in *The New York Times*. He is constantly "zigzagging from left to right," opines Paul Gigot of *The Wall Street Journal*. Thomas Friedman says "Clinton changes political identities with each season." It's not that these pundits are 100 percent wrong. They are merely simplistic and unhelpful. Clinton has at times embraced both traditionally conservative positions (the death penalty and more cops on the streets) and liberal positions (gun control and rehabilitation). But building a program that draws on both liberal and conservative mainstays is not being "indecisive." It's being a smart policymaker.

On some issues, Clinton has in fact changed his mind. On the budget, a program of modest deficit reduction gave away to a radical budget balancing. But a strong case can be made that Clinton was intelligently, and properly, reacting to what the people seemed to want. Voters in 1994 gave control of Congress to a Republican party that was promising a balanced budget. Shouldn't the President take that into consideration?

A president shouldn't be a slave to public opinion. Sometimes it is his duty to *shape* that opinion. President Clinton hasn't always struck the perfect balance between exercising leadership and obeying the polls. But much of the flak he draws from pundits is due to their own cynicism and simplicity, not his equivocating. Consider just one example occurring soon after the 1994 congressional elections. Newt Gingrich announced his plan to push a constitutional amendment authorizing voluntary school prayer. During a press conference in Indonesia, Clinton was asked if he could support such an amendment. Here is his full reply:

Well, what I think the country needs and what I think the schools need is a sense that there are certain basic values of citizenship, including valuing the right of people to have and express their faith, which can be advocated without crossing the line of the separation of church and state, and without in any way undermining the fabric of our society. Indeed, the schools, perhaps today more than ever before, need to be the instrument by which we transfer important values of citizenship.

One of the things that was in the Elementary and Secondary Education Act that I signed, that passed with strong bipartisan support, but was little noticed, was the advocacy of basically the teaching of civic values in the schools. Now, on the school prayer thing, I can only tell you what my personal opinion is about that. I have always supported voluntary prayer in the schools. I have always thought that the ques-

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tion was, when does voluntary prayer really become coercive to people who have different religious views from those that are in the majority in any particular classroom. So that, for example, I personally did not believe that it was coercive to have a prayer at an outdoor sporting event or at a graduation event because I don't believe that is coercive to people who don't participate in it. So I think there is room for that.

Obviously, I want to reserve judgment. I want to see the specifics. But I think this whole values debate will go forward and will intensify in the next year. And, again, I would say, this ought to be something that unites the American people, not something that divides us. This ought not to be a partisan debate. The American people do not want us to be partisan, but they do want us to proceed in a way that is consistent with their values and that communicates those values to our children. So let's just—I'll be glad to discuss it with them. I want to see what the details are. I certainly wouldn't rule it out. It depends on what it says.

These comments drew immediate, harsh reaction. Clinton had opposed a school prayer amendment during the 1992 campaign and his refusal now to "rule it out" was portrayed by the media as a typical flip-flop. On the talk show circuit—"This Week with David Brinkley," the "MacNeil-Lehrer News-Hour," and CNN's "Capital Gang," to name just a few—the school prayer remarks were the subject of lengthy conversation. But these shows quoted only the final paragraph of the President's Indonesia comments and perhaps one additional sentence. Based on this narrow slice of his extensive comments, Clinton was tried and convicted of waffling. Margaret Carlson found him "too ready to compromise." William Schneider of CNN awarded Newt Gingrich the political play of the week award for having drawn Clinton into this "wishy-washy" position. Look at Clinton's comments, however, and decide for yourself if he's "wishy-washy." Quite the contrary. He reveals an extraordinarily subtle understanding of the issues at stake. He articulates what he sees as the key distinction between voluntary prayer, which he supports, and coercive prayer, which he does not. He explains the problem that merely proclaiming something voluntary does not make it so. And, he takes a controversial position within his own political party, disagreeing with existing Supreme Court cases involving prayer at graduations and sports events. Then, he says he won't categorically rule out a position deeply held by many in the opposing political party who have just won a major election.

The Mushy Middle

Al Hunt was revealing when he quoted with approval a Democratic strategist's complaint that "voters are looking ... to be able to place [Clinton] on a map." But Hunt and his colleagues use a map with only two poles. Everything else is the "mushy middle," as it was put in a recent *Newsweek* story on the differences between Robert Rubin and Robert Reich. "Characteristically, Clinton is waffling," Bill Turque wrote. " ... For Big Bob and Little Bob, it's a typical response from Big Bill, who's lodged squarely in the mushy middle."

Indeed, the portrait of Clinton as indecisive has been particularly resonant on economic issues. Just 16 months into the administration, Bob Woodward published *The Agenda,* an insider's account of a tug-of-war between deficit hawks (such as Rubin) and investment-oriented neo-liberals (such as Reich). The book sketches a President who is enamored of long meetings, but never able to come to decisions. "Mr. Clinton," Andrew Sullivan wrote in *The New York Times Book Review*, "seems to agree with everything anybody says."

Well, anybody who reads *The Agenda* can see that Clinton was genuinely torn. But he also faced the extraordinary challenge of both imposing fiscal discipline on an economy wracked by huge deficits, and finding money for neglected investments such as infrastructure, education, and job training. In a revealing moment, Woodward records the reaction of Clinton aide Bob Boorstin to a memo that explained this conflict to the President: "*You have inherited a two-part challenge of historic proportions,* he read. In other words, he thought, you've been fucked."

Boorstin was right. Perhaps a better man than Clinton would have juggled this set of economic and political knives more gracefully, without cutting himself in the process. What matters, though, is that Clinton in the end wrote—and passed—an economic plan that was the model of smart centrism with modest tax increases on the rich and new investments to create jobs.

Now, I have plenty of criticism for Clinton on the economy. But it's one thing to differ on the substance. It's another to defiantly ignore outcomes in order to sock it to him on process. Consider the

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nomination of Ruth Bader Ginsburg to the Supreme Court in 1993. At the Rose Garden ceremony announcing Ginsburg's selection, Brit Hume complained of a "certain zig-zag quality in the decision-making process."

Well, yes. Clinton had considered dozens of candidates seriously for the Court vacancy—choosing in the end between Ginsburg and Stephen Breyer. The selection of a Supreme Court justice, however, is among the most important and far-reaching of presidential decisions. Hume's niggling flew in the face of powerful evidence that Clinton had just chosen extremely well. Both Ginsburg and Breyer, who Clinton was also later to name to the Court, are judges, intellectuals, and citizens of the highest order.

Clinton has also been charged with chronic indecisiveness on foreign policy. But isn't it fair to say that he stood with most Americans when he hesitated to send U.S. soldiers to Bosnia and Haiti? Isn't it also true that his strategies now look like they have a good chance of working? We'd have much more reason to worry if Clinton continually failed to appreciate the need for action or unduly rushed to commit American forces.

Where the President truly suffers is in the perception that he has no core beliefs, that he's someone, as Steve Forbes puts it, who "gets up each day and figures out by looking at the polls what he's supposed to believe that day, with no coherence, no vision for moving America forward." To take one of a thousand examples: Last April, Clinton was lambasted for his remark, in a discussion of affirmative action, that "this is psychologically a difficult time for a lot of white males, the so-called angry white males." "What the country needs from Clinton," Colbert King wrote in *The Washington Post*, "is less Hamlet and political sweet talk and more of what it paid for: a president who will take a stand."

But what clearer stand does King want? Clinton has pledged full support for the principle of affirmative action, while calling for a curb on programs that overreach. It's no betrayal of affirmative action to concede that such policies have winners and losers. His refusal to embrace two undesirable extremes—ending all programs to remedy past injustice or uncritically supporting them—isn't at all the same thing as refusing to take a stand. And in pushing those on the far left toward the center—this speech was given to hard-core Democratic activists—he's not just talking the talk of common ground, but working towards its realization.

On affirmative action as well as any number of issues, many Americans would prefer to dump Clinton in favor of a take-charge leader such as Colin Powell. But Powell's popularity reveals a stark contradiction among the public: Americans want their leaders to be decisive, but they also tend to punish decisions that they judge to be contrary to their own interests. Powell seems perfect because he has the aura of moral center and resolution but hasn't offended any interest groups.

It's not just the press, then, that contributes to the misunderstanding of Bill Clinton, but also the contradictory impulses of the public—the impulses that led to Powell-mania. And politicians who delight in collapsing the nuances of their opponents' positions don't help, either. Witness the constant, simplistic jabs at Clinton as a "big government" liberal. Or consider Bill Bradley, who explained in his retirement speech that "Republicans are infatuated with the 'magic' of the private sector and reflexively criticize government as the enemy of freedom, and the Democrats distrust the market, preach government as the answer to our problems and prefer the bureaucrat they know to the consumer they can't control."

Where has Bradley been the last three years? Was Bill Clinton's health-care plan—which fully embraced private insurers—the work of a man who distrusts the market? Has the President given a single major speech without emphasizing the importance of entrepreneurs and job creation? When Bradley parrots the media's familiar categories he reinforces the ideological divide he purports to be criticizing.

Clinton's problem is that pressure to adhere to a strictly leftist or right-wing agenda—or be derided as a "waffler"—shows no signs of easing. His task,

Garry Trudeau

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then, is to articulate his vision in terms that can be readily communicated and understood. In actions, as in tone, Clinton has already established a powerful theme for a post-ideological presidency: He will defend average citizens who play by the rules, but who are threatened by economic insecurity, intolerance, and the inevitable bouts of misfortune or bad luck. Whether through tax cuts for the working poor or beefed up law enforcement or job-training, the President has already shown he means business. And for the future, this theme cuts across virtually every challenge the country faces.

Both for the election and for a potential second term, Clinton must frame those challenges, explain the choices, and work to persuade the public on which way to go. At times, he has played this role brilliantly. Clinton was initially reluctant to endorse the NAFTA trade agreement, for example. But when he did support the treaty, he threw the full weight of the presidency into explaining to the country the choice between open markets and closed borders, and the benefits that would accrue with the former. The treaty was ratified by a wide margin and, despite continuing economic pain caused by plant closings, it still seems clear that Clinton did the right thing for the country's future.

Part of Clinton's task is to not simply walk fine lines on questions of race, welfare, and the economy, but to pose new questions for the country: Does global competition mean we have to give businesses absolute power over the rules of the marketplace, or does government have a role in shaping market rules to serve the public interest? Is government merely a tax drain on household finances or does a democratic allocation of funds sometimes serve us better than the self-interested decisions of profit-seekers? Will a few examples of regulatory excess sway us from strong bipartisan efforts to improve our environment, or will we sacrifice short-term gain for the hope of a greener future?

When all is said and done, we know that Bill Clinton has the right answers to these questions—even if working out the details will inevitably involve some indecision. Those who disagree with him have every reason to oppose his reelection. But the majority of us who agree should sign on for another bumpy ride. □

The Washington Monthly

Journalism Award

January 1996

"Philip Morris vs. ABC"
Benjamin Wittes
Legal Times

Legal Times acquired a brief prepared by ABC's lawyers for their case against Philip Morris that offers shocking insights into the making of cigarettes—including substantiation of the claim that cigarette manufacturers "spike" cigarettes with nicotine to addict consumers. This piece follows the process in which levels of nicotine are manipulated to meet Philip Morris's standards. The tobacco industry's legal firepower convinced ABC to publicly apologize for its "Day One" broadcast. But the Justice Department is investigating whether tobacco industry officials have perjured themselves by testifying that nicotine is not addictive.

"Medikill"
Robert Dreyfuss and Peter H. Stone
Mother Jones

This is an alarming exposé of how Golden Rule Insurance, an obscure company from Indianapolis, has maneuvered itself into position to torch Medicare and earn millions from its ashes by establishing Medical Savings Accounts, a system which tends to benefit the affluent and the healthy. Golden Rule has achieved its potentially profitable advantage through alliances with GOP leadership and a network of right-wing think tanks and industry groups. Even the Republicans' beloved Congressional Budget Office, by the way, predicts Medical Savings Accounts will cost taxpayers $4 billion.

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Reclaiming Our Cities, Block by Block

How a Little Rock program offers hope for countering urban decay

BY JULIAN E. BARNES

At 1015 Schiller Street in Little Rock, Arkansas, a white house sits wanly. Flaking paint freckles its face; the pasty-gray particle board covering the front window is warping around the nails that hold it to the frame. Across from the house, a driveway leads to a vacant lot, clogged with Sumac trees, discarded flasks of vodka, and 40-ounce bottles of Schlitz malt liquor. Save for a church at the end of the block, 1015 Schiller is the only building on the street. And the rest of the neighborhood isn't doing much better. On nearby 11th Street, untrimmed trees and bushes hang over boarded-up porches like a jungle canopy. One nearby resident calls the area "Vietnam": a neighborhood of empty lots, forgotten houses, and gang turf.

But walk a bit further on 11th Street, and you start to notice a change. On the south side of the street the yards are mowed and the house paint is not peeling. One more block south the transformation is nearly complete. New sidewalks and street lamps border the smooth asphalt. In this small area, around Dennison Street, six new homes are wedged between renovated ones. On the lawn of one blue-trimmed, yellow-sided house, a sign reads "Neighborhood Alert Center."

In the last four years the city of Little Rock has transformed this area through a program called "Model Blocks." It works like this: On a single block in a dying neighborhood, the city builds new sidewalks and street lamps, fills vacant lots with new homes, and requires owners of nearby houses to make them livable. Near some of the Model Blocks the city has built "Alert Centers" for police, city inspectors, and community groups. For about $240,000 per block for housing work—paid for with federal grant money—and $126,000 per year for police and city workers, residents get a chance at a new neighborhood.

In 1996, the constituency for social spending in the cities has grown weaker and weaker. And the disillusionment, in many ways, is easy to understand. Dissatisfied with subsidized housing that seems to ruin good neighborhoods, the country has turned to schemes that purport to let the inner city help itself. In the last few decades, disbursement of cash aid and, more prominently, economic development initiatives came to prevail over housing programs. As Nicholas Lemann observed two years ago in *The New York Times Magazine*, saving the slums by encouraging business growth appealed to middle-class taxpayers because it cost less; it appealed to the poor because it gave them greater control of their neighborhoods.

Julian E. Barnes is a reporter at the Arkansas Democrat-Gazette.

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The problem, as Lemann showed, is that it doesn't work. Under Lyndon Johnson, Gerald Ford, Jimmy Carter, and Bill Clinton, billions of dollars have gone towards programs aimed at building new businesses in inner cities. But no more significant business enterprise exists in these neighborhoods today than in 1964. Rather, employment prospects have declined as blue-collar jobs disappeared from the industrial and downtown urban areas. From 1967 to 1987, New York City lost 58 percent of its manufacturing jobs, Chicago lost 60 percent, and Philadelphia lost 64 percent.

These failures have fueled a larger pessimism about the ability of government programs to ensure decent, safe places for poor and working-class people to live. The Little Rock experiment, though limited, is a glimmer of hope. Unlike the massive public housing complexes that have become the loci of crime and despair, Model Blocks works on a simple, powerful principle: Just as bad seeds can take root and spread through once proud communities, so can good seeds. It's true that there is no magic wand to turn down-and-out Roxbury into Beacon Hill. But that doesn't mean we should abandon the inner city. The Little Rock program is not a war on poverty; it's a struggle for a few city blocks. And that modest goal is well worth fighting for.

Model Blocks mixes liberal ideals with conservative ideas. Private investment and personal responsibility are as vital to its success as government services. Strong law enforcement is considered essential as is the understanding that, while government can play a role in improving people's lives, it is no substitute for individual initiative.

In 1990, Little Rock already had almost a dozen federally-funded programs to rebuild and renovate homes in poor neighborhoods. Model Blocks emerged when city officials and community members decided to concentrate all these resources on a single block. Making the block look better than the surrounding neighborhood gives homeowners added incentive to care for their property. It also shows taxpayers that the city can make a difference.

"If the house is owner-occupied, we will make them an offer they can't refuse," says Edwin Stanfield, who retired in November as Little Rock's director of housing and community development programs. "We want every property improved." But this was no heavy-handed housing plan. Stanfield remembers with dismay the federal urban renewal projects of the 1960s that ripped up historic, albeit run-down, homes in Little Rock to make room for sterile apartment high-rises. "You don't want an urban renewal situation where you buy it all up, move everyone out, build it back up and move in different people. We don't want to change an area but reinvest in it," Stanfield says.

To appreciate the success of Model Blocks, it helps to look to one of the program's failed antecedents. Only three blocks away from the Dennison Street Model Block are the remains of a housing program that withered. On the 1000 block of Schiller Street—the empty neighborhood with the freckled house and vacant lots—a private activist group called the Association of Community Organizations for Reform Now (ACORN) renovated a home in 1986. Since ACORN can't purchase an entire block, it fixes up houses where it can find them, spreading its energy thinly over hundreds of blocks. Even though it receives government grants, ACORN simply can't deliver the comprehensive services necessary to rescue an area from decline.

In 1986 Lacy and Daniel Williams became the first family to own a home renovated by ACORN. They moved after a year—barely able to carve out a small safe place to live, let alone rejuvenate the block. Gang members loitered on the lawn. Broken bottles accumulated in the street gutters. They were the only family to live in the ACORN home. In 1993 the city tore it down.

Contrast that experience to a Model Block. Because revitalization efforts are concentrated in a small area, homeowners can work together and support each other. From the nearby alert centers, the city offers inspectors to check roofs, kitchens, bathrooms, and floors. City employees offer help with grant applications and loans to make heating and roofing improvements. Perhaps most importantly, police officers patrol the neighborhoods and deal with both serious criminality and "quality of life" infractions which worry residents.

And Model Blocks doesn't just give opportunities to a lucky few. The program aims to make renovation and renewal contagious—as contagious as blight has been in the past. It's true that it's easier to tear something down than build it up. But just as local zoning ordinances, freeways, and federal tax laws abetted inner-city decay, other government policies can encourage and help residents to invest in their neighborhood.

In an era of tight resources, Model Blocks also shows the advantages of an innovative public-pri-

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vate partnership. Public funds are seed money, encouraging private energy and investment. That further enhances the chances of the renewal taking hold and even spreading into adjoining areas. George Mealy and his wife Holly Hakeem have become neighborhood heroes since they moved in next to the Model Block. Before they arrived, young gang members hung out at the empty house, sold drugs, and frightened neighbors. "My husband saw them standing out there," Hakeem says. "He went up to them and explained that we lived here now, and we paid for the house, and he wasn't going to stand for them making trouble." When persuasion didn't work, Hakeem and Mealy called the police. Thanks to a 1993 sales tax increase, Little Rock has more officers on the street at night. And during the day, two cops work from the alert center.

There's no magic wand to turn down and out Roxbury into Beacon Hill. But that doesn't mean we should abandon the inner city.

Mealy's next door neighbor, Martha Duhart, says the family's work and the extra police presence have returned the neighborhood to something closer to the place she moved to in 1968. "They were selling dope in the street. They had a shoot-out," Duhart says. "It's nice here now." Newly confident about her neighborhood, Duhart has begun work on her roof and porch, to keep pace with the improvements around her. If the blocks were more numerous and closer together, the multiplication effect could be even more dramatic. Hundreds of blocks lie within the city's officially designated ghetto; only a half dozen are Model Blocks.

But given the anti-government mood of the current Congress, more federal aid for Model Blocks isn't likely. The Republican budget proposal, vetoed in December by President Clinton, cut the money for urban programs by almost 24 percent. And Republicans plan yet another attempt to lure businesses to the inner city, which we know from experience doesn't work.

But renewal programs that focus on housing *can* work—and Little Rock isn't the only evidence. Take the South Bronx, where burned-out tenements came to symbolize America's urban wasteland after a plague of arson in the 1970s. A building program begun by the city and non-profit groups in 1986 has helped create 50,000 new homes in the city's ghettos, as Alan Finder reported in *The New York Times* last April. The program operates on a premise similar to Model Blocks: Rebuild an area, rather than just a single dwelling, and the chances for success are higher. The Dudley Street Neighborhood Initiative in Boston, the first nonprofit community group to be given powers of eminent domain, has had similar success resuscitating an inner-city neighborhood.

It is a constant challenge for these developments to maintain the housing at high standards. In New York, the city has already boarded-up some individual apartments while graffiti has covered the front hallways in one building. In Model Blocks, that's rarely a problem. By selling all of the new or renovated homes to families, the city guarantees that the people who live in a Model Block have an economic stake in the improvement of the neighborhood. If the neighborhood goes to pot, so does their investment. If the area blooms, they get a nice place to live and the chance to sell their home for a nice return.

The corollary, of course, is that Model Blocks do not directly address the needs of the truly destitute; right now, the program is limited to the working poor, who can, with some help, buy their own homes. As it grows, the program ought to move toward including subsidized rental property. As long as families who own their homes remain the majority, the neighborhoods will stand a fighting chance.

Perhaps the greatest threat to successful housing programs like Model Blocks is the natural—but dangerous—desire to overreach. Concentrated home ownership and policing programs will make neighborhoods livable, but they are not going to turn them into middle-income areas. Exodus to the suburbs by those wealthy enough to leave the city—both black and white—is ingrained in American culture. Mealy and Hakeem are planning to move to a nicer house in the country. This isn't a failure of Model Blocks, but a sign of its success. Instead of becoming gentrified and out of reach for the working class, the block will continue to give struggling families a shot at decent housing.

Even in an age of cynicism about government, focused programs like this can generate strong public support. Model Blocks are clean, cared for, and alive. Even the "angry" American voter will gladly support programs that get results. □

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In Defense of a Defense of Government

A proposal for smart, activist public institutions and the question: How do we get there from here?

BY JON MEACHAM

In Defense of Government: The Fall and Rise of Public Trust
Jacob Weisberg, *Scribner, $22*

This is a book I hope most people in Washington won't read. Jacob Weisberg has written a brisk and convincing account of the shifting fortunes of "government" from Madison to Gingrich, and its argument is eminently reasonable: that a smart, activist government is essential, and that the typical conservative pose ("let's cut everything") and the liberal retort ("don't cut anything") miss the mark. It is a predictable case, and that's not a criticism. Reminding people of first principles is important, as is asking them to give up comfortable caricatures. Weisberg does both, but his title—*In Defense of Government*—probably dooms the book to become a fresh strawman for the usual suspects to use in reviews, on talk shows, and at think-tank conferences. The Heritage crowd will scoff; the Democratic Leadership Council will cheer: somebody in the ever-shifting Clintonian middle (maybe Bill Clinton himself, on his way to Marine One) will brandish a copy and declare it "thoughtful." And then they'll all quickly move on to something else, secure and unmoved in their own opinions. That's why the best audience for Weisberg's book will be people who don't obsess over politics.

Nothing in the book will come as much of a surprise to close readers of the *Monthly*, where Weisberg once worked as an intern and where similar points have often been made. As Weisberg puts it, "Conservatives exaggerate the Great Society's failure in order to discredit liberalism's successes; liberals overstate conservative cynicism to gloss over faults of their own." This will strike most people as exactly right, and it is. What can actually be done to create an effective government is always the troubling part.

There's no getting around the fact that most voters don't trust government. This seemed more pronounced, more bloody, just a year ago, after the Republican landslide of 1994. Now, inevitably, a fickle public and press seem to be tacking centerward, correcting for the gleeful, storming-the-gates sense of 1995. But everything is a matter of context, and the Clinton who could run on universal health insurance just four years ago is now offering himself as a stolid protector of the status quo—*minus* a few programs.

Weisberg, *New York* magazine's national political columnist, is very good at charting the historical and sociological causes of the current discontent. He points out, rightly, that suspicion of centralized power began not at Fort Sumter but at Philadelphia, and even before; it is our oldest political tradition. Only the crises of the Depression and, perhaps more important, World War II, accustomed the country to trusting Washington with large problems. This confidence lasted through the fifties, as Truman and Eisenhower built the post-war middle class with the GI Bill, the Cold War defense economy, interstate highways and all the rest. The high-water mark came after JFK's glamorous turn in the White House, when he

Jon Meacham, a contributing editor of The Washington Monthly, *is* Newsweek's *national affairs editor.*

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called on the country to "Let public service be a proud and lively career." In 1964, 76 percent of Americans said they trusted Washington to do what is right "most of the time" or "always." Today 18 percent do. What happened?

Conservatives say Lyndon Johnson happened. Weisberg notes that when Gingrich ran his first (unsuccessful) House race in Georgia in 1974, one of his slogans was "Keep the New Deal but dismantle the Great Society." Dick Armey later elaborated on the point. The Great Society, he says, was "an explosion of well-intentioned but misguided government action that made poverty worse, broke up families, devastated inner cities, and led to a hemorrhage of red ink." Note the theme here: Government tried to help the poor (many of whom were/are black), failed, and terrible, terrible things resulted, including the deficit. The logic is epic, vague, and basically wrong-headed. But effective, for it's the kind of language and imagery that fueled the Republicans' rise to congressional power for the first time in 40 years.

Liberals, of course, disagree. They tend to argue that what undermined public faith in government was not the merits of what Washington did or didn't do but the Republicans' calculated use of race to become the majority party. When Johnson signed the landmark Civil and Voting Rights Acts in 1964 and 1965, according to this view, he turned the Democrats into the party of blacks. This was the origin of Nixon's "Southern Strategy"—an approach Lee Atwater would later hone. By this liberal logic (which is as imprecise and self-serving in its way as the conservative assessment of the Great Society), all government was depicted as a giveaway to unworthy minorities and was therefore suspect. For years now, liberals have pitied themselves for being the victims of what they consider a racist plot.

As always, it seems, both extremes are wrong. Conservatives distort the truth when they argue that all the government's money goes to the undeserving poor; the most popular, and expensive, programs are directed at the middle and upper classes. (And have been for a half-century.) And for liberals to hang the problems with government on the Republicans' use of the race card misses much of the point. The more significant obstacles include irresponsible spending by public officials and selfish public employees' unions that force ever-higher salaries and protect the incompetent.

So what to do? Weisberg proposes a "neoprogressivism," a return to principles about good, limited government made popular by the Progressives in the first decades of the century. There is nothing to quarrel with in his suggestions. Regulate smartly, but know government can't eliminate all risks; kill off unneeded programs; and, intriguingly, "underpromise" on reform and new initiatives in order to rebuild public confidence.

The problem with all of this is that it feels as though we've been here before. Clinton ran on just this sort of talk, and he has basically—with the large exception of health care—followed through. Sure, he could have tried to be tougher on bureaucrats. But every program has its defenders, and there are few so utterly dismal that a good case can't be made for preserving at least some of their functions. The value of this book, then, is to encourage a general habit of mind that eschews extremism, glibness, and cynicism. We want a government that's shrewd, and big-hearted, and elevates our lives by elevating the country.

The easy example for those of us who want to make that point is always the civil rights movement. In a stark and moving moment, the might of Washington did away with clear evil, killing off legalized segregation. Weisberg smartly waited until the close of his book to tell the touching story of the integration of the University of Alabama. Done earlier, he would have opened himself up to charges of liberal sentimentality. Here, it comes off with perfect pitch. There is George Wallace in the schoolhouse door (wearing a network microphone). There is Nicholas Katzenbach, Bobby Kennedy's noble lieutenant, delivering the presidential order. But most important, there is Vivian Malone, the first black student, whose admission would have to be forced by the Alabama National Guard and 3,000 federal troops, going to the cafeteria. There were threats of riot, but Katzenbach escorted Malone over for lunch. She got her tray, and sat down alone. Within 30 seconds, half a dozen white girls had gotten up and gone over to join her—not to mock, but to befriend. "That's the most powerful part of the story," Weisberg concludes, "because it is about a change that good government inspired but could not force." We lack the clarity of those days, but we should never lack the spirit, and the tool of government, to take on the seemingly intractable. □

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"... holds up a deadly accurate mirror to the Washington political culture, exposing its hypocrisies, stupidities, and unexpected triumphs." —*Chicago Tribune*

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Milosevic's Wars

The canard about the Balkan conflict is that it springs from deep, ethnic hatred. In fact, the atrocities were largely the work of one man

BY CHARLES LANE

The Death of Yugoslavia
Laura Silber and Allan Little, *TV Books, $29.95*

Love Thy Neighbor: A Story of War
Peter Maass, *Knopf, $25.95*

If you can only read two books about the wars in the former Yugoslavia, you should choose this complementary pair. Laura Silber and Allan Little's journalism is cool, historical, analytical. They have written the best, most detailed account of the political machinations which led to the breakdown of the Yugoslav federation and the beginning of ethnic conflict among its successor states. Peter Maass's reporter's memoir is emotive, gripping, and often moving in evoking the war in Bosnia and the horrible atrocities that were committed by Serb nationalist forces against the mostly Muslim civilian population.

The most durable canard about the wars in the Balkans is that they are the consequence of ancient ethnic hatred, too complex and too deeply rooted to be fathomed, much less countered, by outside powers. This "analysis," which sounds sophisticated but is in fact intellectually lazy, became conventional wisdom—a kind of intellectual trump card—among all those who sought to forestall United States military intervention to stop the Serb drive in Bosnia.

Silber and Little show that the true causes of the war were contemporary. Yes, there were underlying intergroup suspicions among the Serbs, Croats, and Muslims of Yugoslavia. But the "nations," as Yugoslavs call them, had grown accustomed to papering over, if not solving, these tensions during the 40-odd years of Titoist Communism, which collapsed for good in 1990. Deliberate efforts by post-Communist politicians to arouse and exploit nationalistic feelings were what actually ignited the conflagration.

Silber and Little point no denunciatory fingers, but the cumulative impact of their reporting and analysis, based on extraordinary access to the key players in the former Communist governments of the Yugoslav republics, internal military intelligence videotapes, and other previously unearthed primary sources, is that Slobodan Milosevic of Serbia is the principal culprit in the Yugoslav crack-up.

This is essentially the story of three wars—in Slovenia, in Croatia, and in Bosnia, with the latter war being the most bloody and dramatic. Digging back into the much-neglected events of the late 1980s, Silber and Little show that the roots of the wars in Croatia and Bosnia lie in Milosevic's audacious decision to seize control of the Serbian Communist party by exploiting Serb nationalism. He began by making an issue of alleged mistreatment of Serbs in Kosovo—an Albanian-majority province that is nevertheless sacred territory to Serbs. Riding the wave of popular sentiment he had stirred up with help from his media allies in Belgrade, the Serbian capital, Milosevic was able by 1988 to assume control of the Serbian Communist party, which was still the dominant politi-

Charles Lane, a senior editor at The New Republic, *covered the war in Bosnia for* Newsweek *during 1992 and 1993. He wishes to note that he was a colleague of all three of these authors, and is mentioned in the acknowledgements of Peter Maass's book.*

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cal institution in the state.

From there, Milosevic moved rapidly to install his loyalists—not only in Kosovo, but also in Vojvodina, and Montenegro. With control over four of the eight voting positions on the collective presidency (the executive authority established when Tito died in 1981), Milosevic had effectively seized control over the national government. He had gotten to his position of power by exploiting ethnic tensions. And just as a shark dies if it ever stops swimming, Milosevic's only means of remaining in power in Belgrade was to continue the demagoguery. After Kosovo, he focused on exploiting old Serb fears of the Croats and Muslims. He was willing to pursue this strategy right up to, and beyond, the point of war.

Maass's book shows a Milosevic who is clearly a hands-on manager, someone directly responsible for all that is done in his name.

Perhaps the most insightful element of Silber and Little's analysis is their examination of the overlooked Slovene secession. Small, prosperous, and ethnically homogeneous, the Republic of Slovenia split from the rest of Yugoslavia in July 1991. Because Slovenia's war of independence was short and relatively bloodless, it has been ignored in most analyses of what happened later in Croatia and Bosnia. Silber and Little show, however, that the tacit but symbiotic relationship between the Slovene secessionists and Milosevic was crucial to much of what would follow. Once Slovenia was out, Milosevic was left with a working 4 to 3 majority on the Yugoslav presidency.

More important, the Slovene split set the stage for the later use of the Yugoslav National Army (JNA) on behalf of policies that were essentially determined in Belgrade. Up to that point, the national army had actually been the most potent impartial force in the country. The executive branch—the primary political institution—was increasingly splintered by nationality. But as dedicated Communists committed to Tito's ideology of "brotherhood and unity," the national army officers maintained the military as the last national institution resisting the split-up of the country. JNA officers went to Slovenia to fight the secessionists in that spirit. But they quickly pulled out at Milosevic's behest—thus solidifying Milosevic's power and precipitating the far bloodier conflict in Bosnia.

After Slovenia, the national army was increasingly compromised, and increasingly came to be seen, and to see itself, as a pro-Serb force. When the war in Croatia came, it was largely because Milosevic succeeded in falsely portraying the fight for Serb "rights" in Croatia as part of preserving Yugoslav unity. There was a Serb minority in Croatia resisting Croatian independence. Thus, the JNA was willing to jump in on the side of Serb secessionists from Croatia. By the time Bosnia's war began, the national army had shed its Slovene and Croatian officers almost entirely. Dominated by Serb officers, it was a de facto instrument of Serbian policy. The result was this: Milosevic had the JNA and all its weapons, while the Bosnians were hamstrung by an international arms embargo. Not surprisingly, Milosevic's program of exploiting ethnic tension evolved into the horror of ethnic cleansing.

Though their narrative ends in June 1994, Silber and Little effectively adumbrate the Dayton accords—the essence of which, from a Serb point of view, is Milosevic's abandonment of territory seized by the very Bosnian and Croatian Serbs he had urged into war earlier. Milosevic did so to get sanctions on Serbia proper lifted. Opportunistic motivation underlay all of Milosevic's purported nationalism, so it should come as no surprise that he so quickly dumped nationalism, and those whom he manipulated into fighting a nationalist war, when it suited his own desire to remain in power.

Among the more memorable chapters in Maass's book is his meeting with Milosevic in early 1993. Whereas Silber and Little evoke the political calculations behind Milosevic's actions, Maass produces a perceptive psychological portrait. There were no notetakers or flunkies in the room as the two men talked; no heavy security. This was clearly a hands-on manager, someone who was directly responsible for everything that was done in his name. He was a man curiously lacking in affect, a perpetrator utterly convinced he was really the victim. If Maass's Milosevic were to have a credo, it might be "They hit us back first."

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> You would never describe this man as warm, but he did not come across as cold either. His voice was unremarkable, moderate in scale, and when he spoke of wrongs committed against Serbs, his favorite subject, there was a trace of whining in it, the sound of injury. He looked me in the eye for ninety minutes and told one lie after another, and he did it with utter sincerity. He sat three feet away from me, and without smiling or sounding sarcastic, he protested in a sweet voice, "I am one of the normal simple citizens of Serbia. I don't believe I am something extraordinary."

This is hardly the only instance in which Maass's writing rises to the creative level of the best fiction. Maass visits the Serb-run concentration camps at Trnopolje and Omarska, some of the most horrible sites erected in Europe in half a century, and emerges with an account that is both descriptively and emotionally powerful. "There, right in front of me, were men who looked like survivors of Auschwitz.... As I spoke to one of them, I looked at his arm and realized that I could grab hold of it and snap it into two pieces like a brittle twig."

Maass dares to be highly personal in his account, and most of the time this imparts strength and honesty to his recollections. But sometimes the risks inherent in this approach overtake him, and he lapses into hyperbole and shrill accusation. Milosevic is not literally responsible for "the murder of at least 200,000 people," since the death toll in Bosnia was probably not quite that high, and since not all of the dead were actually "murdered." Many died in combat, and some of them were pro-Milosevic Serbs.

Thus the Auschwitz analogy is plausible in some ways, but problematic in others—and Maass is not sufficiently careful about making these distinctions. For example, he quotes uncritically a joke that used to make the rounds in dark, freezing Sarajevo: "What's the difference between Auschwitz and Sarajevo? In Auschwitz they had gas." I never used to laugh at this tasteless joke. It always made me a bit uneasy, in fact: Sarajevo's problems were bad enough without inviting ridicule by likening the city to a Nazi death camp. In Auschwitz, they didn't have a hospital, a United Nations airlift, sporadic television, a foreign press corps, and sufficient if not abundant food.

In another personal moment, Maass reveals that Bosnia taught him what it means to be Jewish. Growing up secular and unpersecuted in America, he was only dimly aware of the plight of his illustrious ancestors, the Warburgs, (wealthy Jewish bankers who were expropriated and expelled from Hitler's Germany) until Bosnia led him to research their fate. It is appropriate and commendable that witnessing such contemporary human suffering should have led Maass to reflect on the continuity between the persecutions of the past and those of the present, and to place himself on one tangent of that great chain of inhumanity.

In another sense, however, it is sad that Maass came to a new identification with Judaism by way of another comparable group's experience of victimization. "I am now more aware of the fragility of human relations," he writes on the book's last page, "and more aware of what being a Jew can mean." But surely Jewishness and the Jewish people are not defined by the hostility others feels toward them; Jewishness does not "mean" a latent eligibility for extermination. Bluntly, the Holocaust alone does not, and probably should not, define Jewish identity in the modern world, and Maass leaves us wondering why he would imply the opposite. He is on much firmer ground instructing us on the universal lessons taught by Bosnia about the awesome capacity for evil—the "wild beast"—which lurks inside every individual and group, and which can all too easily be unleashed when politicians and citizens surrender to the passionate summons of the tribe. □

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Constitutional Buchananism

Daniel Lazare sees a mess, and proposes absolute majority rule as a way to clean it up

BY LLOYD CUTLER

The Frozen Republic: How the Constitution is Paralyzing Democracy
Daniel Lazare, *Harcourt Brace, $25*

Daniel Lazare describes himself as a free-lance journalist who writes about race, drugs, and urban policy. He has no training or reputation as a constitutional scholar. But he has plainly read a great deal about the framing of our constitution, the writings and thinking of the Enlightenment, and the commentaries on the Constitution from de Tocqueville and Jeremy Bentham to Woodrow Wilson and Charles Beard.

Unfortunately, the conclusions he distills from this research strike me as being as wrong-headed as they possibly can. He views the checks and balances of the constitutional system as freezing the nation's ability to deal decisively with problems from slavery in the first half of the 19th century to the drug culture, urban decay, and environmental damage in the second half of the 20th. In short, he blames the Constitution for every imaginable modern ill.

Lazare offers this doomsday scenario: In 2020, California threatens to secede from the union unless its representation in the Senate is increased to be in proportion with its population. In response, the House of Representatives passes a resolution abolishing the Senate, wins popular approval of this decision by a national referendum, and thereafter runs the country by its own majority rule. Lazare approves of this course. It would be justified, he argues, by the principle that "we, the people," having proclaimed the Constitution in the first place, can amend or abolish it through our elected representatives in the House, without following the amendment procedure specified in Article V. What the president, the courts, the armed forces, and the press would be doing while all this is going on, Lazare does not explain.

One cannot help but note the similarity of Lazare's preference for majoritarian absolutism with that of Pat Buchanan. Buchanan would have Congress set aside Supreme Court constitutional decisions, though even he would probably acknowledge the need to amend the Constitution to do this. Not so Lazare, who would have the House alone seize all the government's powers by coup d'état.

Lazare correctly points out that we have had at least one such coup before, namely when the Philadelphia Convention convened to propose amendments to the Articles of Confederation. Under those Articles, it would have required unanimous approval of all 13 states for any such amendment to be adopted. Instead, the Constitution was drafted from scratch; the framers pronounced by fiat that it would take effect when only nine of the 13 states had ratified it. All this was, of course, very different from what Lazare now envisions, because ultimately all 13 states did ratify. And while the meaning of the original Constitution has certainly been stretched by judicial opinions and executive actions, no one has ever tried to alter its express terms except by following the difficult amendment procedure laid out in the document itself.

Lazare would encourage the House majority to leapfrog Article V because he believes that it absolutely bars any amendment changing the equal suffrage clause—the right of all states to the same

Lloyd Cutler served as counsel to President Carter from 1979 to 1980 and to President Clinton in 1994. Along with Douglas Dillon and Nancy Kassebaum, he has been co-chairman of the Committee on the Constitutional System.

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number of senators. But practical politics aside, nothing in the Constitution bars it from being amended first to remove the "equal suffrage" clause and then to adopt a second amendment reconstituting the Senate with some form of unequal suffrage for the states.

When it comes to explaining why he would prefer the House to run the country directly, Lazare presents another highly debatable suggestion: that the modern Senate is more opposed to social change than the House. But the House has been *more* reactionary than the Senate on issues such as abortion, gun control, welfare, budget balancing, and on other key elements of the Gingrich Contract With America.

When Lazare blames the Constitution for blocking laws to address drug use, street crime, the decay of our cities, and the deterioration of the environment, he is similarly off-base. There have been many flurries of legislative action on these issues; the continued crisis is as much due to the intractable nature of these problems as it is to any government failure to deal with them.

Lazare has a deep love affair with the unwritten English constitution and its basic principle of absolute majoritarian rule. He is dismissive of the American Bill of Rights; he maintains that personal freedom is at a higher level in Britain, which has no entrenched bill of rights, than in the U.S. He has no concern that a demagogic, emotional majority of the moment would infringe on the rights of its political opposition or of individual citizens.

Lazare does have a point about how the checks and balances of the original Constitution, and particularly the amendment process of Article V, entrenched slaveholding and prevented a legislative solution to the problem, which left the country no alternative but to resolve it by a civil war. But he carries his argument too far. Since the British House of Commons abolished slavery by 1772 with a simple majority vote, Lazare argues that a simple majority in Congress could have done the same before 1861—if the Constitution hadn't stood in the way. This, of course, is a gigantic nonsequitur, given the legislative power of the slaveholding states, the fact that most of the pre-Civil War presidents were southerners, and the virtual certainty that if an abolition law had passed the southern states would have seceded and the Civil War would have occurred regardless.

I have my own love of the unwritten British constitution. However, what I like about the British system is not its unbridled majoritarianism, but rather the cohesiveness of its political parties, the resulting ability of the majority party or coalition to frame and execute its policies, and its direct accountability to the voters for its successes and failures. In Britain, there can be no such thing as a divided government—the executive power in the hands of one party and the legislative power in the hands of another—and no confusion as to where to give the credit or place the blame. If a British Prime Minister loses a major vote in the House, he and his Cabinet have to resign, and new elections are usually called. Under our constitution we can and do have divided government, which continues at least until the next fixed election. And when we do have divided government, decision-making and accountability become hopelessly muddled.

While our Constitution allows for divided government, it does not make it inevitable. In the heyday of political parties—from 1800 to about 1950—there were only three out of 38 presidential election years in which the party electing the president failed to elect a majority of both houses of Congress. Since 1950, however, we have had divided government most of the time.

To decrease the incidence of divided government, we do not have to amend or overthrow the Constitution. All we need to do is to rebuild our political parties, and help them to regain the public confidence they once enjoyed. One small step in this direction would be a simple federal statute—authorized by the "times, places and manner" clause of Article I, Section 4—providing that in presidential election years, the presidential election be held 30 days before the congressional election. This would enable the president-elect, at the apex of his or her popularity, to urge the voters to elect representatives and senators of the same party, so that the president would have a realistic chance to carry out the party program. We might still be perverse enough to do the opposite, but at least we would have to think about whether we want a government that is capable of acting and clearly accountable for the results. □

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Political Booknotes

Character Above All
edited by Robert A. Wilson
Simon & Schuster, $23
By Martin Walker

Under the current standards of public morality, it is hard to see any of the presidents of the mid-20th century making it into the White House. What a waste that would have been. Franklin Roosevelt would have suffered from his dalliances, and probably from his wheelchair, too. Truman's loyalties to Boss Prendergast would have given him an ethics problem. Kay Summersby was no bimbo, and Eisenhower was too guilt-wracked to consummate their passion. But imagine the press conference question: "Have you ever attempted adultery with an alien in wartime?" The issue barely needs raising over Kennedy, and LBJ's cozy financial deals on TV franchises would have done for him, even without his serial exercise of the Presidential droit du seigneur.

This leaves us with the startling conclusion that in the 40 years from 1932 to 1972, the only president who would have passed the test of what we are now pleased to call "the character issue" would have been Richard Nixon. Certainly he was no lecher, and in the sense of graft, he was not a crook. But in a test which Nixon passes and FDR fails, something is evidently amiss with our current prejudices about the kind of character we desire in political leaders.

Wait a minute. What character? Whose prejudices? There seems to be a gap between the assumptions of the media and political elites inside the Beltway, who pontificate about elections, and the voters who actually decide them. The Beltway crowd, which claims to know the difference between a venal and a mortal sin for a politician, assumed that Clinton was unelectable after Gennifer Flowers and the Vietnam draft. George Bush, the war hero in youth and war leader in office, should have won the character election hands down. But in their wisdom, preferring a clouded candidate who cared and thought about the economy to an upright president who didn't, American voters threw Bush out of office.

The problem here is Beltway-speak, the lazy confusion of presidential character with "the character issue," which is media shorthand for whether or not voters trust Clinton after Whitewater and Troopergate and Paula Jones and so on. This kind of confusion made it a useful idea to gather 10 historians, or rather eight historians and two speechwriters, to offer brief canters around the characters of the last half-score of presidents.

The result is not altogether a success, although we get some agreeable essays and some entertaining anecdotes, because men of conventionally upright character do not tend to shine in the often grubby world of politics. Harry Truman closed his eyes to the graft in Missouri if he could get county roads built. Eisenhower was as fine a man as ever entered the White House, but he ducked McCarthyism and he avoided desegregation for a shamefully long time. A decent man like Gerald Ford ditched a loyal Nelson Rockefeller because he thought picking Bob Dole as vice-president would help win the election.

Michael Beschloss, in an elegant essay on George Bush, notes that presidential greatness depends utterly on the context of the time. FDR limited to two terms would neither have ended the Great Depression nor been a war leader. Foreign policy wonk Bush would have done better had the Cold War stayed in business. Or as Robert Dallek suggests, in his rambling piece on LBJ's gargantuan personality, "Fate is character." Writing on Kennedy, Richard Reeves concludes, "we pay our presidents for four or five, one or two big decisions ... when communism falls, when black people riot."

These three we may put on the relativist side of the argument, which suggests that presidential character depends on the tests that are set and how they are faced and has very little to do with conjugal fidelity or fancy footwork with the accountants.

Peggy Noonan, re-working her usual hagiography of Reagan, and David McCullough, writing of Truman, take a different view: that a flawed man must be a flawed president. Truman decides on the Berlin airlift because of being "raised at his mother's knee to believe in honor, ethics and right living." (Nixon, it is worth recalling, was raised the same way by a Quaker mother whom he revered as a saint, but her upbringing did not altogether stick.)

"Reagan won on Communism and won on taxes," Noonan says, and

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explains elsewhere that this is because "You can buy policy wonks. But you can't buy courage and decency, you can't rent a strong moral sense. A president must bring those things with him."

And how, Ms. Noonan, would Americans of 1945 have guessed that the universally derided Harry Truman brought such qualities with him? And how shall we know what stuff Bill Clinton is made of, beyond what we learned of his unsinkable resilience in the scandal storm of the 1992 campaign? That was a character test, sure enough. It told voters a lot about the way Clinton would perform under pressure.

The irony is that we can never really know a president's character until it is too late to do much about it. On the evidence of this book, the historians will always say that we should have known, that the clues were there all along. Maybe the voters mystically detected the core of steel which saw playboy John Kennedy through the Cuban missile crisis. I doubt it. The best we can hope for is to understand the difference between useful information, like Clinton's endurance or Carter's sanctimony or Reagan's optimism, and the background noise. Mercifully, the voters are usually better at this than the Beltway.

Martin Walker is U.S. bureau chief of Britain's The Guardian, *and author of* The Cold War: A History.

Integrity

by Steven Carter

Basic Books $22

By David Linker

On a recent issue of "Meet the Press," Colin Powell was asked if he would vote for Pat Buchanan. When Powell simply responded, "No, I would not," I actually laughed out loud, astonished by his blunt rhetoric in this age of spin control. Much of the American public's attraction to Powell has to do with their perception of precisely this forthright quality. No one really knows much about what he stands for. He's never been a legislator, and his writings are new and relatively few. There is just a sense that Powell does and says what he believes.

Stephen Carter's new book *Integrity* examines why this quality is so important, and so rare. As the title implies, at the heart of the book is an inquiry into what it means to be a "person of integrity," whom Carter defines as one who is "somehow undivided." There are three factors involved in leading an integral life: Discerning what is right and what is wrong, acting on what you have discerned, even at personal cost, and stating openly the motivations behind your behavior.

Carter spends the first third of the book fleshing out these points with some degree of success (though by arguing that "we have a general duty to the right rather than the wrong, a duty as absolute as the duty to follow God's will," his treatment of moral discernment may ring hollow to the less devout). The true accomplishment of the book, however, is his treatment of the need for, and current lack of, integrity in American politics. Carter believes—and recent polls would substantiate his claim—that the trust that Americans have in their elected officials is abysmally low. Every time a Washington insider like Bob Dole gets up on the podium and denounces media violence, but then exempts a violent movie like "True Lies"—he said it was a "family film," presumably because it starred Arnold Schwarzenegger, an avid, public supporter to many Republican campaigns—the need for politics of integrity becomes only too clear. The candidacies of Ross Perot, Steve Forbes, and even Lamar Alexander were all propelled, to some degree, by these candidates' ability to define themselves as outsiders who don't play by Washington's deceitful rules. And in turn, the American public supported them, to some degree, because we're looking for leaders whose actions are thoughtful and whose words mean something.

Carter fares less well, though, when he goes beyond politics to take umbrage with hyperbolic job and postgraduate recommendations, the media, marriage, and pro sports. He spends several chapters discussing the difficulties in maintaining a successful marriage. Certainly, there is a good deal of merit to his criticism of the ease and rise of divorce in this country. But more often than not he sounds like little more than a judgmental marriage counselor. When Carter advises couples who no longer feel love or have sexual feelings for each other not to concentrate on "listing the things that they can no longer do together, but on listing the things they can," one wonders what crevice of pop psychology he pulled this gem from. His efforts to discourage divorce are laudable, but he's so caught up in the theology of the marriage vow that he comes across as insensitive to the personal pain that a loveless marriage can cause.

At times, the topics that Carter discusses seem to be completely unrelated to the problem of integrity. For example, after a discussion of cheating in professional sports, he suddenly and at great length, enters into a defense of baseball players' astronomical salaries. First of all, it's difficult to see how this relates to the book's central focus on acting openly on our principles. Secondly, Carter's argument that players' exorbitant pay is validated by market forces seems somewhat at odds with his concerns about individual responsibility and morality.

Carter's digressions not only dilute his point, but at times lead him to contradict himself. The book reaches the zenith of absurdity when Carter boldly states, "Hume argued that one cannot derive an *ought* from an *is*. I would answer that you cannot defeat an *is* with an *ought*." This leaves one wondering: If Carter really believes that the way things are cannot be changed by advocating how things should be, why did he bother to write this book at

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all?

Nevertheless, *Integrity* is one of the rare books that is bad but deserves to be read. In an age when less than half the population votes, it is all too evident that we need to find a way to make politics meaningful to Americans again. We do need a politics of integrity; we need our leaders to be discerning, to say what they mean, and to stick by their promises. Despite its many failings, the one thing that *Integrity* does successfully is make this all too clear.

David Linker is the production manager of The Washington Monthly.

Above The Law: Secret Deals, Political Fixes, and Other Misadventures of The U.S. Department of Justice
David Burnham
Scribner, $27.50
By Ronald Goldfarb

The very name "Department of Justice" is ironic, the caustic critic H. L. Mencken claimed in 1926, calling the body a "fecund source of oppression and corruption." "It is hard to recall an administration in which it was not the center of grave scandal," he reported, recommending that a realistic history be written. Seventy years later, the veteran investigative reporter, David Burnham, has taken up the challenge in *Above The Law*.

Burnham took on an assignment that is both overdue and difficult, for the 126-year-old Justice Department is formidable in size, scope, and complexity. Charged with the constitutional duty to see that laws are faithfully executed, the president appoints an attorney general who oversees more than 100,000 employees, including 7,000 litigating lawyers, and a $12 billion dollar department including such disparate functions as prison management, immigration management, and the F.B.I. The attorney general oversees more patronage jobs than any other Cabinet member.

The "grave scandals" noted by Mencken are due in no small part to the department's complexity—and its split loyalty to both the law itself and to the administration. Presidents traditionally have appointed political advisers to the post and have used attorneys general as private counselors in troubled times. President Andrew Jackson told his attorney general, Roger Taney, to solve a problem in the way he wanted "or I will find an attorney general who will." Of course, in running the Department of Justice, there are politics, and there are politics; there is an important distinction to be made. When I was at Justice during the Kennedy administration, we drastically cut the Internal Security Division and expanded the organized crime section to reflect the changed values of the times and the preferences of a new administration. Such shifts of policy are inevitable and proper. Soiling the administration of justice with party politics, on the other hand, by target-

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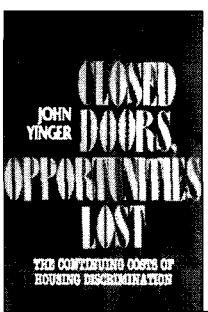

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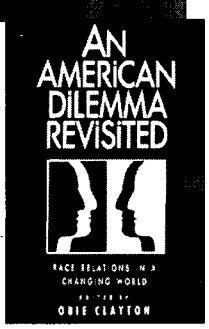

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ing opponents or forgiving allies, is intolerable. It happens, at times, but it never should.

On this subject, as with several others in an otherwise convincing and eye-opening book, Burnham is more scolding than edifying. And sometimes he over-stretches to make his point. For example, he cites an instance when some Pennsylvania politicians called Robert Kennedy about a pending organized crime investigation, and the attorney general then queried the staff members involved. Burnham calls this a case of the Kennedy administration bowing to political pressures. But in an interview for my own book, a lawyer involved in that investigation went out of his way to tell me that Robert Kennedy did not bow to political pressures; he simply wanted to be kept informed.

Burnham is correct, though, to emphasize the difficult nature of setting priorities and exercising discretion at the Department of Justice—and the flawed fashion in which that's currently done. Burnham calls enforcement of environmental laws, for example, "chaotic, slipshod." He's right. The 93 local U.S. attorneys (usually political appointees owing as much to their local party leaders as to administration officials) operate regional baronies and satrapies, and do so in an idiosyncratic fashion. These attorneys don't just execute policy—they establish it themselves. This creates what critics call an "adhocracy," which reacts to the crises of the day with department officials whose careers usually are short-lived (the average tenure of top officials is about two years). I was once told directly by Webster Hubbell, who was essentially running the Justice Department at that point, that the Clinton administration had no plans to appeal a pending case. But the case *was* appealed (and lost) because the department's internal momentum (career lawyers) prevailed over its present leaders.

Burnham offers useful suggestions for directing the department's vast available data into meaningful policy and performance standards. This could light the way for others to solve some of the foibles uncovered in this book.

But some of Burnham's criticisms are overly broad. He indicts all administrations with failing to enforce civil rights measures, for example. But surely some have performed better than others. Further, one wonders if the dilemmas Burnham describes could ever be handled satisfactorily. For example, he would prefer more prosecutions of white collar crimes; so would I. Citing class biases, outright political deals, poorly drafted laws, and incompetent investigators, he indicts the department for incompetent enforcement of regulatory laws. And he has powerful evidence, stories of hazardous waste, financial fraud, dangerous food and drugs, unsafe cars—each affecting vast numbers of people and each circumventing the law.

This insufficient focus on white collar, corporate crime is no accident, however. The American public is understandably, if shortsightedly, more worried about random crimes of street violence. That is why law enforcement—and the media—devote so much time and energy to this problem. Crime rates may be dropping, but they remain beyond civilized standards. The problem here is less a lack of good policies than lack of political integrity and public responsibility—neither are institutional Justice Department flaws. If the American people would press and vote for tough regulatory law enforcement, they might get it. For that to happen, the corrupting influence of money must be excluded from the elective process.

Still, much of the Justice Department's work is admirable and responsible. And Burnham shouldn't be expected to have answers to all the world's most confounding law enforcement questions. His book was not intended to be prescriptive (though he is often tempted in that direction), and it need not be to have performed a valuable service. *Above The Law* raises timely and important questions

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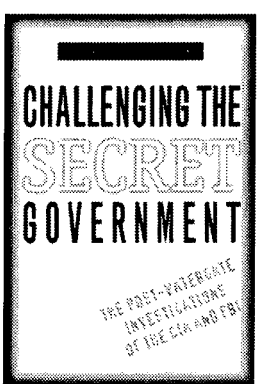

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about the federal law enforcement system. It leaves the reader anxious to know what can be done to correct all the fundamental failings this book painstakingly highlights. That book of remedies remains to be written.
Ronald Goldfarb, a Washington attorney and author, served in the Department of Justice during the Kennedy administration. His book, Perfect Villains, Imperfect Heroes: Robert F. Kennedy's War Against Organized Crime, *was reviewed in the December issue.*

Closed Doors, Opportunities Lost: The Continuing Costs of Housing Discrimination
John Yinger
Russell Sage Foundation, $29.95
By Dante Ramos

At first, you might mistake economist John Yinger for a race-relations Rip van Winkle. Yinger offers *Closed Doors, Opportunities Lost*, a book on housing discrimination, at a time when many minority politicians owe their gerrymandered safe districts to the intractability of ghettoes, when white fears of integration are expressed in code (fear of "high crime rates" and "declining property values"), and when organizers of the Million Man March have urged blacks to wash their hands of whites and go their own way. In short, Yinger writes as if four decades of protest and progressive legislation have barely altered the terrain upon which minority Americans struggle for equality.

He's right. Yinger presents a litany of depressing data suggesting that blacks and Hispanics who look for new homes are shown fewer units than comparable whites and are steered toward low-income, segregated neighborhoods. Yinger figures that housing discrimination costs black homebuyers $5.7 billion and Hispanic homebuyers $3.4 billion every three years.

Yinger relies most heavily upon the 1989 Housing Discrimination Study, which he directed and which the Department of Housing and Urban Development sponsored. Black-and-white and Hispanic-and-white teams of testers, matched by sex, age, marital status, income, assets, occupation, and family size, conducted 3,800 audits in 25 metropolitan areas nationwide. The teams randomly selected newspaper ads for apartments and houses. Testers were coached to ask agents whether the advertised unit was available and whether others like it were available. They visited every unit agents offered and recorded every positive and negative comment agents made.

Stop the presses: Agents generally treated white testers better. In about 41 percent of their visits to realtors, black testers learned about fewer apartments than their white counterparts; whites learned about fewer houses on only 18 percent of visits. In other words, in a visit to a typical real estate agent, a black prospective renter who asks about available units is 23 percentage points more likely than a comparable white one to get shafted.

The pattern of discrimination against blacks and Hispanics persists at almost every step of a transaction. Compared with demographically similar whites, Hispanics who ask about unadvertised units are 7.7 percentage points more likely to be steered toward relatively low-income neighborhoods. Blacks are asked to pay $12.16 more per month in rent for the same apartment. So if you're white, thank your skin pigment whenever a real estate agent serves you quickly, offers helpful comments, or calls you at home to ask for your business; there's a decent chance your black and Hispanic coworkers won't get the same treatment.

Skeptics will point out that housing discrimination may have diminished considerably in the seven years since Yinger's team conducted its survey. But don't bet on it. A recent study of discrimination by a New Orleans fair housing group suggests that the 1989 survey *under*estimates the shameless behavior of some real estate agents. According to an account in the New Orleans *Times-Picayune*, a black tester, after identifying herself to an agent, waited outside a complex for 15 minutes before being given a tour. "When the black tester asked for an application," the paper reported, "the agent said that it was locked in a car, then got into the car and drove off.... [L]ater the same agent took the white tester on a tour and immediately afterward handed the woman an application and encouraged her to put down a deposit on the apartment." Some agents explicitly acknowledged a policy against renting to blacks.

All in all, black testers in the New Orleans study encountered discrimination 77 percent of the time, often in liberal, stably integrated neighborhoods. According to Yinger, that shouldn't be surprising—he says discrimination is often stiffer in integrated areas than in all-white enclaves. Because neighborhoods in most cities are still subject to an appalling process called "tipping"—in which white flight rapidly makes a ghetto out of an integrated neighborhood once the minority population reaches 15 to 30 percent—well-intentioned agents may discriminate to preserve the benefits of integrated living for everyone. Agents with more sinister motives may simply want to keep out the minorities. But Yinger's statistics don't distinguish the good agents from the bigoted, because their actions are exactly the same. And the outcome is the same, too: Blacks and Hispanics don't get the chance to live in homes they might have liked.

Yinger's account of the sins of real estate agents makes a perfect complement to *American Apartheid*, a brilliant, definitive study of the social consequences of racial segregation by sociologists Douglas Massey and Nancy Denton. Those authors convincingly link segregated neighborhoods to the frail labor markets, poor schools, and high rates of welfare receipt among black Americans. But Massey and Denton devote only a chapter to how minorities end up in such toxic environments. Yinger fills the gap, and his book makes your gorge rise with righteous anger.
Dante Ramos is a reporter at the New Orleans Times-Picayune.

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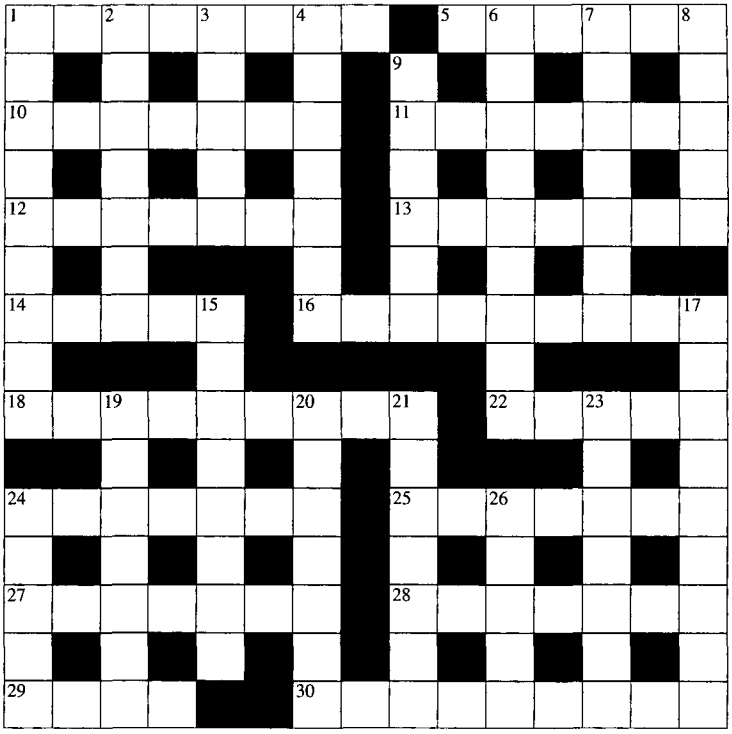
Political Puzzle

BY JOHN BARCLAY

The numbers indicate the number of letters and words—thus (2,3) means a two-letter word followed by a three-letter word. Groups of letters, such as USA, are treated as one word.



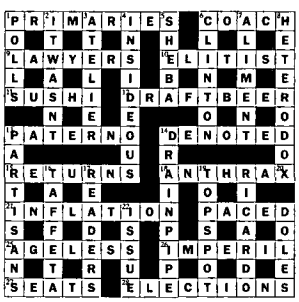
Across

1. He wrote two articles after mincing chub. (8)
5. He changed robes after finishing first. (6)
10. Pirate with rough mien, we hear. (7)
11. Polished enlaced mesh. (7)
12. Spanish gold coin change in river. (7)
13. Glowing explosive at nadir. (7)
14. Leg put back in that is a copy. (5)
16. Attacks rates then set. (9)
18. Manufacture large teak water container. (5,4)
22. Points of poem among points. (5)
24. Bare, ill-prepared for party. (7)
25. Permissiveness disturbed silence. (7)
27. "No pin?" he snarled. "Check with the office!" (5,2)
28. Messy trip end published. (7)
29. He is indolent at heart. (4)
30. He made Dean relax. (9)

Down

1. Entincing king once installed after start of battle. (9)
2. Dior car smashed for Spanish amusement. (7)
3. Famous hold-out in hypocritical amorality. (5)
4. Destination for taxi or a trip abroad. (7)
6. Reorganized war vendor in sorry fiscal state. (9)
7. Strip began ad badly. (7)
8. Assassinated leader in Odessa database. (5)
9. Game official is more upset finding center in. (6)
15. Forced Dexter to mismanagement. (8)
17. Nude press displayed single article of clothing? (9)
19. Draw in and construct mobile around middle of March. (7)
20. '96 site first among the less attractive not taken already. (7)
21. Tricky splice before cable end is predictable event. (7)
23. Not dead perhaps, but free of cost. (7)
24. Ran easily old exercise around gym class. (5)
26. Fragile country? (5)

Answers to last month's puzzle:



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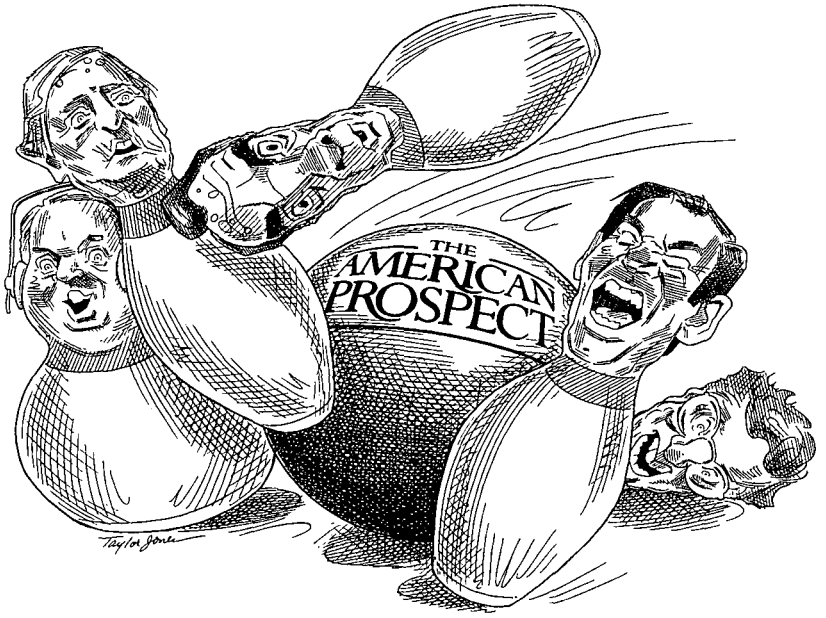
BOWLING ALONE?



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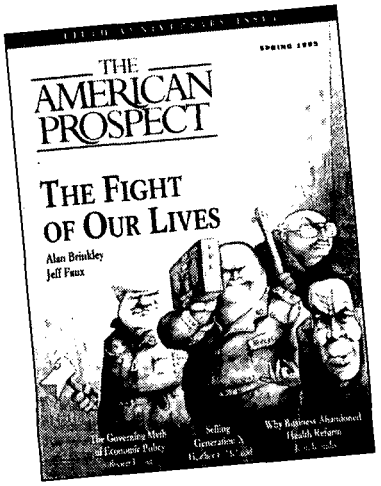

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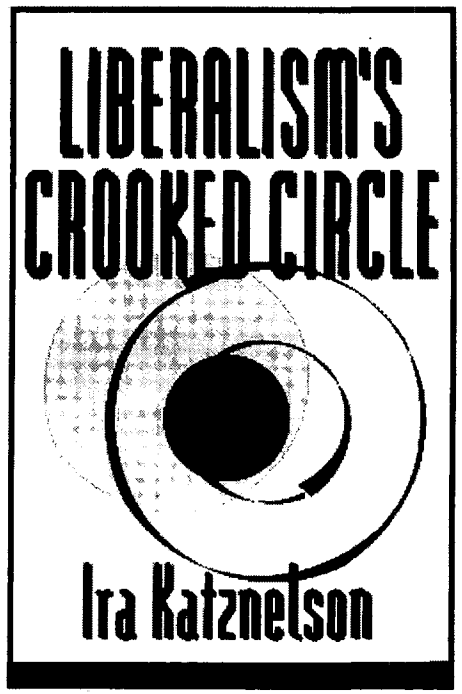

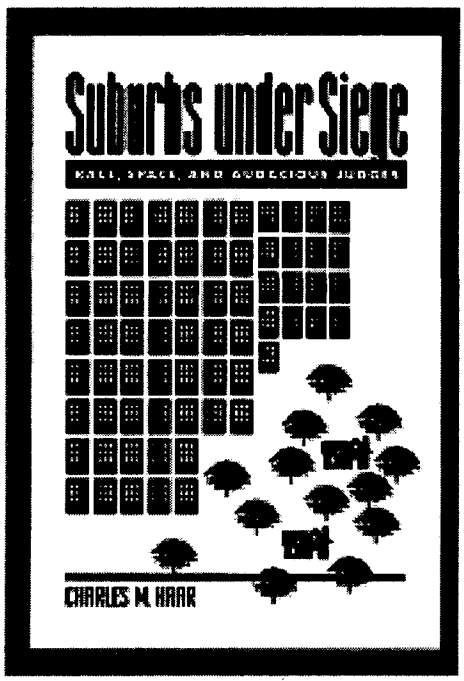

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